

## **CITY OF HUBBARD, OREGON**

### **DEVELOPMENT CODE**

**Ordinance No. 177-93  
Adopted January 1, 1993**

**(Amended by Ordinances 185-93, 188-94, 193-95, 202-96,  
206-96, 208-97, 223-99, 240-00, 253-01, 262-03, 277-04, 280-05, and 288-06 )**

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## **CHAPTER 1**

### **GENERAL ORDINANCE PROVISIONS**

#### **1.100 INTRODUCTORY PROVISIONS**

##### **1.101 TITLE**

This Ordinance shall be known and may be referred to as the City of Hubbard Zoning and Development Ordinance.

##### **1.102 PURPOSE AND SCOPE**

###### **1.102.01 Purpose**

This Ordinance is enacted to:

- A. implement the goals and policies of the City of Hubbard Comprehensive Land Use Plan;
- B. provide methods of administering and enforcing the provisions of this Ordinance; and
- C. promote the public health, safety, and general welfare of the community.

###### **1.102.02 Conformance Required**

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use or occupation of any structure within the City of Hubbard shall conform to the requirements of this Ordinance.

###### **1.102.03 Violations**

Upon failure to comply with any provision of this Ordinance or with any restrictions or conditions imposed hereunder, the Council may withhold any further permits and may withhold or withdraw City utility services until correction is made.

Notwithstanding any such action taken by the Council, it shall be unlawful for any person, firm or corporation who violates any provision of this Ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision, except as variation may permit under this Ordinance. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or occupant shall not be deemed to relieve the other.

Violation of any provision of this Ordinance is punishable upon conviction by a civil penalty of not more than \$300, and where the violation is a continuing offense, a civil

penalty of not more than \$300 for each day of the violation, but such penalty shall not exceed the sum of \$1,000.

**1.102.04 Jurisdiction**

The Hubbard Municipal Court shall have jurisdiction over the prosecution of any violation of this Ordinance.

**1.102.05 Interpretation**

The provisions of this Ordinance shall be interpreted as minimum requirements. When this Ordinance imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Ordinance shall control.

**1.102.06 Savings Clause**

Should any section, clause or provision of this Ordinance be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Ordinance as a whole or of the remaining sections. Each section, clause and phrase is declared severable.

**1.102.07 Conflicting Ordinances**

All zoning, subdivision, and other land development ordinances previously enacted by the City are superseded and replaced by this Ordinance.

**1.103 ESTABLISHMENT OF ZONING DISTRICTS**

**1.103.01 Districts**

For the purposes of this Ordinance, the incorporated area of the City of Hubbard, Oregon, is hereby divided into the following zoning districts:

Low Density Residential District (R-1)  
Medium Density Residential District (R-2)  
High Density Residential District (R-3)  
Residential-Commercial District (RC)  
Manufactured Home District (MH)  
Commercial District (C)  
Industrial District (I)  
Industrial-Commercial District (IC)  
Public Use District (PU)

## **1.103.02      Boundaries**

- A. The zoning district boundaries are shown on the zoning map of the City of Hubbard. This map is made a part of this Ordinance and shall be marked and designated as the Hubbard Zoning Map and shall be kept on file at City Hall.

Any future changes to the zoning of land within the City of Hubbard which are approved under the provisions of this Ordinance, shall be appropriately depicted on the Hubbard Zoning Map.

- B. The Planning Commission shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of such boundaries on the Hubbard Zoning Map, the Planning Commission shall rely on the Hubbard Comprehensive Plan Map and the following guidelines for the location of zoning district boundaries; property lines; lot lines; center lines of streets alleys, streams, or railroads; City boundaries; notations on the Hubbard Zoning Map; or other planning criteria determined appropriate by the Planning Commission.

**DEFINITIONS**

**Access:** The way or means by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to property.

**Accessory Building or Use:** A structure or use which is clearly incidental and subordinate to the main building or use on the same lot.

**Adjoining:** Contiguous or abutting, exclusive of street width. It shall include the terms adjacent, abutting or contiguous.

**Administrative Review:** A decision affecting land use within the City which is based on the application and/or enforcement of existing standards contained in this Ordinance. Administrative decisions will be made by the City Recorder or his designee.

**Alteration, Structural:** Any change in the exterior dimensions of a building or a change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam or girder.

**Amusement and Recreation Services:** Establishments engaged in providing entertainment for a fee and including such activities as dance halls; studios; theatrical productions; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial facilities, such as arenas, rings, rinks, and racetracks; public golf courses; coin operated devices; amusement parks; membership sports and health clubs; swimming pools; riding academies; carnival operations; expositions; game parlors; and horse shows.

**Area of Special Flood Hazard:** Lands in the designated floodplain which are subject to a one percent (1%) or greater chance of flooding in any given year. Also, commonly referred to as the 100-year floodplain.

**Automobile, Recreational Vehicle or Trailer Sales Areas:** A lot used for display, sale or rental of new or used automobiles, recreational vehicles or trailers where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.

**Automobile Service Station:** A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhaul.

**Automotive Repair:** Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

**Base Flood:** A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Basement:** That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.

**Bed and Breakfast Establishment:** A structure designed and occupied as a residence and in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid for the rental or use of the facilities.

**Building:** A structure having a roof and built for the support, shelter or enclosure of persons, animals or property of any kind.

**Carport:** A stationary structure consisting of a roof with its supports and not more than one wall or storage cabinet substituting for a wall and used for covering a vehicle parking space.

**Cemetery:** Property used for interring of the dead.

**Change of Occupancy:** Change in property ownership, business ownership, or a use that differs from the previous use of a building or land. Guidelines for assessing changes are based upon the impact the change generates based upon the Development Code, General Development Standards, Section 2.200 through 2.207.

**Church:** A permanently located building primarily used for religious worship.

**City:** The City of Hubbard, Oregon.

**Clear-Vision Area:** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lines measured from the corner intersection of the right-of-way lines for a distance of twenty (20) feet. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersections have rounded corners the right-of-way lines will be extended in a straight line to a point of intersection.

**Clinic:** A facility for examination and treatment of human ailments by a group of physicians, dentists or other licensed practitioners on an out-patient basis and not involving overnight housing of patients.

**Club:** An organization, group or association supported by the members thereof, the purpose of which is to render a service primarily for members and their guests, but shall not include any organization, group or association the in which chief activity is to render a service customarily carried on as a business for profit.

**Commercial Storage:** See Warehouse.



**Commission:** The City Planning Commission of Hubbard, Oregon.

**Communications Antennas:** Devices used for sending and receiving information via different forms of transmission.

**Communications Towers:** Structures used for sending and receiving information via different forms of transmission.

**Community Building:** A publicly owned and operated facility used for meetings, recreation or education.

**Comprehensive Plan:** The Comprehensive Plan of the City of Hubbard, Oregon.

**Critical Feature:** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Day Care Facilities:** Care, supervision, and guidance in a provider's home on a regular basis to more than three children who are from more than one family during part of a 24 hour day for more than 70 days in a calendar year. Providers who meet this definition are required to register and/or be certified by the Child Care Division of the State of Oregon. The categories for day care facilities are as follows:

1. Group Child Day Care Homes. A facility located in a residential dwelling that is certified to care for no more than 12 children.
2. Child Day Care Centers. A facility that is certified to care for 13 or more children, or a facility certified to care for less than 13 children that is not located in a residential dwelling.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Distribution Center:** An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including shipment by boat, rail, air, or motor vehicle.

**Dwelling Unit:** One or more rooms designed for occupancy by one family and not having more than one cooking facility. Includes all conventional and prefabricated housing which meets Uniform Building Code specifications and is constructed on a permanent foundation.

**Dwelling-Multi-Family:** A building containing three (3) or more dwelling units designed for occupancy by three (3) or more families living independently of each other or three or more detached structures on one lot.

**Dwelling-Single-Family-Detached:** A detached building containing one dwelling unit designed exclusively for occupancy by one (1) family.

**Dwelling-Townhouse:** A multi-family structure so designed that each individual dwelling unit is located upon a separate lot or parcel.

**Dwelling-Two-Family (Duplex):** A detached building containing two (2) dwelling units designed exclusively for occupancy by two (2) families living independently of each other.

**Easement:** A grant of right to use an area of land for a specific purpose.

**Expedited Land Division:** An expedited land division is an action of the City that (a) includes land that is zoned for residential uses and is within the urban growth boundary, (b) is solely for the purposes of residential use, including recreational open space uses accessory to residential use, (c) does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goal that protect open spaces, scenic and historic areas, and natural resources, (d) satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules, and (e) creates enough parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.

An expedited land division is a land division that will create three or fewer parcels under ORS 92.101 and meets the criteria set forth for an action under (a) and (d) above.

**Fabrication and Assembly:** The manufacturing from standardized parts of a distinct object differing from the individual components.

**Family:** An individual or two or more persons related by blood, marriage, adoption or legal guardianship and living together as one housekeeping unit, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five (5) unrelated persons living together as one housekeeping unit.

**Fence:** An unroofed barrier or an unroofed enclosing structure or obstruction constructed of any materials including but not limited to, wire, wood, cement, brick and plastic.

**Fence, Sight Obscuring:** A fence or evergreen planting arranged in such a way as to obstruct vision.

**Flag Lot:** A lot that has frontage on and primary access to a street by means of a “flag pole”.

**Flag Pole:** That portion of a flag lot that is a narrow strip of land providing primary frontage and access to the main body of the lot.

**Flood Insurance Rate Map (FIRM):** The official map on which the Federal Emergency Management Agency (FEMA) has designated areas of special flood hazard within Hubbard urban area.

**Floodway:** The channel of a river or other watercourse together with the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floodway Fringe:** The land between the limits of the floodway and the one-hundred year floodplain.

**Floor Area:** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement, if the floor above is less than six feet above grade;
3. Uncovered steps or fire escapes;
4. Private garages, carports or porches;
5. Accessory water towers or cooling towers; or
6. Off-street parking or loading spaces.

**Frontage:** All the property on one side of a street between two street intersections or crossings, measured along the line of the street, or if the street is dead-end, then all of the property abutting on one side between a street intersection and the dead-end of the street.

**Garage, Private:** A detached accessory building or portion of a main building used for the parking or temporary storage of automobiles in which no business, occupation or service is provided.

**Garage, Public:** A building, other than a private garage, used for the care, repair or equipping of motor vehicles, or where such vehicles are parked or stored for compensation, hire or sale.

**Government Structure:** Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, municipal government agency, or special district.

**Grade:** The average elevation of the finished ground at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

**Height of Building:** The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

**Home Occupation:** An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of good and/or services. The primary use of the dwelling unit is residential. See Section 2.303.

**Hospital:** An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care with nursing service on a continuous basis.

**Hotel:** Any building in which lodging is provided to guests for compensation and in which no provision is made for cooking in individual rooms.

**Institutional Use:** A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, or government owned or operated building, structure, or land used for public purpose.

**Junk Yards:** The use of more than 200 square feet of the area of any lot for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery, whether or not such uses are conducted as a business for profit or otherwise.

**Kenel:** Any lot or premises on which four (4) or more dogs and/or cats over the age of four months are kept for sale, lease, boarding or training.

**Land Division:** Any partition or subdivision of a lot or parcel.

**Livestock:** Domestic animals of types customarily raised or kept on farms for profit or other purposes.

**Loading Space:** An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**Lot:** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as herein required; such lots shall have frontage on a public street, and may consist of:

1. single lot of record;
2. portion of a lot of record; or
3. combination of complete lots of record and portions of lots of record.

**Lot Area:** The total area of a lot, measured in a horizontal plane within the lot boundary lines, exclusive of public and private roads and easements of access to other property. For flag-shaped lots, the access strip shall not be included in lot area for the purposes of minimum lot area requirements of this Ordinance.

**Lot, Corner:** A lot abutting on two intersecting streets, other than an alley, where the angle of intersecting streets is no greater than 135 degrees.

**Lot Coverage:** The portion of a lot covered or occupied by buildings or other structures.

**Lot Depth:** The horizontal distance measured from the midpoint of the front lot line to the midpoint of the rear lot line.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line, Front:** The property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley.

**Lot Line, Rear:** A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front line.

**Lot Line, Side:** Any property line which is not a front or rear lot line.

**Lot of Record:** A lawfully created lot or parcel established by plat, deed or contract as duly recorded in Marion County property records.

**Lot (Property) Line Adjustment:** An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit(s) of land reconfigured by the adjustment complies with all requirements of this Ordinance. A property line adjustment shall act to vacate and replace the existing property line(s) between adjacent properties

**Lot, Through:** An interior lot having frontage on two streets.

**Lot Width:** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**Lowest Floor:** The lowest floor of the lowest enclosed area, including basement, of a building or structure.

**Major Partition:** See Partition and Subdivision.

**Manufactured Home:** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

**Manufactured Home Park:** Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one mobile or manufactured home per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

**Manufactured Home Subdivision:** A subdivision intended for and designed to accommodate manufactured homes on individual lots and developed pursuant to the provisions of this Ordinance.

**Manufactured House Space:** An area as defined by the manufactured house park plan as leased/rented by a leasee/tenant for the placement of a manufactured house. The spaces are as defined on a City approved manufactured house park plan.

**Manufacturing:** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

**Master Plan:** A sketch or other presentation showing the ultimate development lay-out of a parcel or property that is to be developed in successive stages or subdivisions.

**Measurements:**

Linear Foot. Measurement taken in relation to length only; extended in a line.

Mile. Unit of linear measurement equal to 5,280 feet.

Square Foot. A system of measuring area. When used in determining density, one (1) acre equals 43,560 square feet.

**Mini-Storage Warehouse:** An area or areas located within an enclosed building or structure used only in connection with a residential land use for the storage of nonflammable or non explosive materials.

**Minor Partition:** See Partition.

**Mobile Home:** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

**Modular or Prefabricated Home:** A dwelling unit whose components are assembled and brought to the site and erected. The dwelling unit is intended and designed to be placed upon a permanent foundation and substantial construction is needed before it is complete and ready for permanent occupancy. Modular or prefabricated homes are regulated by the Uniform Building Code (UBC).

**Motel:** A building or group of buildings on the same lot containing rooms designed for lodging, with or without cooking facilities, which are available for rent and in which each lodging unit has a separate entrance from the building exterior. The term includes auto courts, tourist courts, tourist homes and motor lodges.

**New Construction:** Structures for which construction was initiated on or after the effective date of this Ordinance.

**Non-Conforming Structure or Use:** A lawfully existing structure or use at the time this Ordinance or any amendments thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**Office:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

**One-Hundred Year Floodplain:** See "Area of Special Flood Hazard".

**Outdoor Display:** Goods, materials, merchandise, or vehicles available for immediate sale within a 24-hour period. This does not include materials accumulated for recycling, goods and materials accumulated for quantity sales, or vehicles stored for repair.

**Outdoor Storage:** The keeping, in an unenclosed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours. This includes goods and materials stockpiled for recycling, goods and materials accumulated for quantity sale, or vehicles stored for repair.

**Owner:** The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel or property under written contract.

**Park:** A tract of land, designated and used by the public for active and passive recreation.

**Park Trailer or Recreational Park Trailer:** A recreational vehicle built on a single chassis, mounted on wheels, designed to provide recreational, seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle. (See OAR 918-525-0035 for more information.)

**Parking Area, Private:** An open area, building or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

**Parking Area, Public:** An open area, building or structure, other than a private parking area, street or alley, used for the parking of automobiles and other motor vehicles, but not to include trucks, and available for use by persons patronizing a particular building or establishment.

**Parking Space:** An enclosed or unenclosed surfaced area, exclusive of maneuvering and access area, permanently reserved for the temporary storage of an automobile and connected with a street or alley by a surfaced driveway which affords ingress and egress for automobiles.

**Partition:** Any division of property which creates three or fewer parcels within the same calendar year and which does not create or extend a public street for access.

**Person:** Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

**Place of Public Assembly:** Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.



**Planned Unit Development:** A type of development of a site which, as a single project, is based on a design which incorporates all elements of land, structures and uses in conformance with the applicable standards of this Ordinance.

**Planning Commission:** The Planning Commission of Hubbard, Oregon.

**Plat:** The final map which is a diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partition.

**Portable accessory structure:** A structure intended for the shelter or storage of self-propelled vehicles, which is comprised of a self-supporting assemblage of material and is not permanently attached to a footing and foundation in compliance with the Uniform Building Code.

**Processing:** The storage of materials in a warehouse or terminal and where such materials may be combined, broken down, or aggregated for transshipment or storage and where the original material is not chemically or physically changed.

**Professional Office:** An office occupied by an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, land use planner, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts, or another professional business similar in type, scale and character.

**Public Airport:** Any facility owned or regulated by a governmental agency, where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

**Public Facility:** See Government Structure.

**Public School:** Any building or part thereof which is designed, constructed, or used for education or instruction and operated by a public school district.

**Quasi-Judicial Review:** A decision affecting land use within the City which requires the interruption and/or amendment of existing standards or maps contained in this Ordinance. Quasi-Judicial decisions are heard by the Planning Commission. The decision of the Planning Commission is final except when the decision would necessitate an amendment to this Ordinance. In those cases the Planning Commission decision is forwarded as a recommendation to the City Council for a final decision. Quasi-judicial review is required for Variances, Conditional Use Permits, Partitions, Subdivisions, Planned Unit Developments, Comprehensive Plan and Zone Changes, and Urban Growth Boundary Amendments.

**Recreational Unit:** Vehicles designed for use on a variety of nonimproved surfaces and including dune buggies and all-terrain vehicles, snowmobiles, trail bikes, mopeds, and motor bikes; vehicles used for recreational purposes on bodies of water, such as boats and motorized ski machines.

**Recreational Vehicle:** A vehicle as defined in ORS 446.003(36) and specifically includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicle does not include a station wagon, sports utility vehicle, van, bus, truck cab-over, utility vehicle or special use vehicle capable of providing eating or sleeping facilities unless the vehicle is also equipped with a holding tank, liquid petroleum gas or a 110 to 240 volt electrical systems to be used in conjunction with the eating or sleeping facilities.

**Recreational Vehicle Park:** Any area operated and maintained for the purposes of picnicking or providing space for overnight use by recreational vehicles.

**Research and Testing:** An establishment or other facility for carrying on investigation of product development and capabilities.

**Residential Care Facility:** A facility for the care of six or more unrelated physically handicapped, mentally handicapped, socially dependent, or mentally, emotionally, or behaviorally disturbed individuals and for staff persons in addition to residents who need not be related to each other or to any other resident.

**Residential Care Home:** A single family residence for the care of five or fewer unrelated physically handicapped, mentally handicapped, socially dependent, or mentally, emotionally, or behaviorally disturbed individuals and for staff persons in addition to residents who need not be related to each other or to any other resident.

**Retail Trade:** The process of selling to the consumer for direct consumption and not for resale.

**Right-of-Way:** The full length and width of a public street or way, planned or constructed.

**School, Elementary, Junior High or High School:** An institution public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

**Service Club or Lodge:** The place where members of a local chapter of an association or a fraternal, cultural, or religious organization hold their meetings; or the local chapter itself.

**Sign:** An identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution or business, and which may be illuminated directly or indirectly.

**Start of Construction:** The date a building permit is issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement occurs within 180 days of the permit date.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade as defined herein, such basement or cellar shall constitute a story.

**Street:** The entire width between the boundary lines of every way of travel which provides for public or private use for the purpose of providing ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas or tracts of land. A private way is excluded that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining or agricultural purposes.

- A. Alley:** A narrow street through a block used primarily for access by service vehicles to the back or side of properties fronting on another street.
- B. Arterial:** A street of considerable continuity which is used primarily for through traffic and interconnection between major areas of the City.
- C. Collector:** A street supplementary to the arterial street system, used partly by through traffic and partly for access to abutting properties.
- D. Cul-de-sac (dead-end):** A short street with one end open to traffic and the other terminated by a vehicle turn-around.
- E. Half Street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
- F. Frontage Road, Marginal Access Road:** A service road parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- G. Local Street:** A street intended primarily for access to abutting properties, but protected from through traffic.

**Structural Alteration:** Any change to the supporting members of a structure, including foundation bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

**Structure:** That which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

**Subdivide Land:** To divide an area or tract of land into four or more parcels within a calendar year for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division of property.

**Subdivision:** All divisions of property which create four or more lots in a single calendar year.

**Substantial Improvement:** The cost of any repair, reconstruction or improvement of a structure equal to or greater than fifty percent (50%) of its market value before such alteration occurred.

**Swimming pool:** Any structure intended for swimming or recreational bathing that has a water depth capacity greater than 24 inches. This includes in-ground, aboveground, and on-ground swimming pools.

**Trailer, Light:** A structure standing on wheels, towed or hauled by another vehicle, and used for short-term carrying of materials, goods, or objects. A light trailer is as defined by the Oregon Department of Motor Vehicles -- not requiring specialized licensing.

**Trailer, Heavy:** A structure standing on wheels, towed or hauled by another vehicle, and used for short-term carrying of materials, goods, or objects. A heavy trailer is as defined by the Oregon Department of Motor Vehicles -- requiring specialized licensing.

**Trailer (Travel or Vacation):** A vehicle or structure equipped with wheels for highway use that is intended for human occupancy and which is designed primarily for vacation and recreation purposes.

**Travel Trailer Parks:** An area containing one or more spaces designed for the temporary parking and convenience of travel trailers and similar recreational vehicles.

**Unstable Soil:** Any soil type, as defined by the U.S. Soil Conservation Service and identified in the Comprehensive Plan, which has severe limitations for development due to potential flooding, erosion, structural instability or inadequate sewage waste disposal.

**Use:** The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**Veterinary Clinic:** A facility designed to contain treatment and temporary care facilities for the cure and prevention of ailments or injuries of domestic animals, including both domestic pets and farm animals, under the direction of a licensed veterinarian.

**Vision Clearance:** A triangular area at the street intersection corner of a corner lot, or at the corner at any alley and street intersection. The triangular area is defined by a diagonal line connecting points on the right-of-way lines a prescribed distance from corner formed by the intersecting streets.

**Warehouse:** A place for the safekeeping of goods and materials necessary for the proper functioning of an industrial or commercial enterprise. Also a facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

**Wholesale Trade:** The bulk sale of goods for resale to a person other than the direct consumer.

**Yard:** The area defined by setbacks (i.e. between the setback line of the building foundation and the respective property line).

**Yard, Front:** A yard extending across the full width of the lot, between the front portion of a main building and the front lot line. The depth of front yard is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building.

**Yard, Rear:** A yard extending across the full width of the lot between the most rear portion of a main building and the rear lot line; but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the centerline of the alley, toward the nearest part of the foundation of the main building.

**Yard, Side:** A yard, between the main building and side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

## **CHAPTER 2**

### **HOW LAND MAY BE USED AND DEVELOPED**

#### **2.100 ZONING DISTRICTS**

#### **2.101 LOW DENSITY RESIDENTIAL DISTRICT (R-1)**

##### **2.101.01 Purpose**

The purpose of the R-1 District is to preserve existing single family residential areas and provide for future single family residential housing opportunities at a density no greater than 6 units per acre. The R-1 zone is consistent with the Low Density Residential Comprehensive Plan designation.

##### **2.101.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-1 zone:

- A. Single-family dwelling unit, including a manufactured home, except that a manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark.
- B. Duplex or townhouse dwelling on a corner lot or on lots as approved by the Planning Commission as part of an application for a subdivision or planned unit development.
- C. Residential accessory structures or uses
- D. Parks and open space uses
- E. Home occupation, subject to the provisions of Section 2.303.
- F. Group Child Day Care Homes
- G. Residential care home
- H. Residential care facility
- I. Church
- J. Residential Planned Unit Developments, subject to Section 2.302.

### **2.101.03 Conditional Uses**

The following uses may be permitted in the R-1 District when authorized by the Planning Commission pursuant to Section 3.103:

- A. Public facility, government structure, or communications towers for emergency services
- B. Bed and breakfast establishment
- C. Cemetery
- D. Day care center

### **2.101.04 Dimensional Standards**

The following minimum dimensional standards shall be required for all development in the R-1 District except for modifications permitted under Section 2.402, General Exceptions.

#### **A. Minimum Lot Area**

- |  |               |
|--|---------------|
| 1. Single-family dwelling  | 7,000 sq. ft. |
| 2. Duplex (not on a corner lot)  | 7,000 sq. ft. |
| 3. Duplex on a corner lot  | 8,500 sq. ft. |
| 4. Townhouse (not on a corner lot)   | 3,500 sq. ft. |
| 5. Townhouse on a corner lot   | 5,000 sq. ft. |
| 6. Public utility structures: Lot area shall be adequate to contain all proposed structures within required yard setbacks. |               |
| 7. All other uses:   | 7,000 sq. ft. |

#### **B. Minimum Yard Setbacks**

- |  |         |
|--|---------|
| 1. All dwellings shall maintain the following minimum yard setbacks: |         |
| a. Front Yard  | 15 feet |
| -- Setback to garage   | 20 feet |
| b. Rear Yard   | 20 feet |
| c. Side Yard (interior)  | 5 feet  |

- Setback for homes 1½ or 2 stories in height 7 feet
- Setback for homes 2½ or 3 stories in height 9 feet
- Setback for townhouses 8 feet on one side of dwelling unit with zero setback (0 ft) on opposite side

- d. Side Yard
  - (adjacent to street – including townhouses) 15 feet
  - Setback to garage 20 feet

2. All detached accessory structures shall maintain the following minimum side and rear yard setbacks:

- a. Rear Yard 5 feet
- b. Side Yard 5 feet

#### C. Maximum Structure Height

- 1. Principle Structure 35 feet
- 2. Accessory Structure 20 feet

#### D. Lot Width and Depth

The depth of a lot or parcel shall not be more than 2 1/2 times the width of the parcel, with the following exceptions:

- 1. Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet of semi-private outdoor living space for each unit.
- 2. Parcels created for public utility uses shall be exempt from width to depth ratio provisions.

### **2.101.05 Development Standards**

All development in the R-1 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking: The required number of parking spaces and shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in manufactured home parks are required to install either a garage or carport.
- B. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with



the provisions of Section 2.208.

- C. Lot Coverage. The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage allowed:

Maximum lot coverage by structures:	45%
Maximum parking area coverage:	30%
Combined maximum lot and parking area coverage:	70%

- D. Signs. Signs in the R-1 District shall conform to the standards of Section 2.206.
- E. Detached accessory structures shall not exceed 1,400 square feet in size, shall be located within the rear yard area, and shall comply with maximum lot coverage standards. Portable accessory structures, used as a private garage, as defined by this ordinance, may be located within the side portion of a front yard, but must maintain the required front and side yard setbacks and shall not be placed directly in front of an attached or detached garage or carport.
- F. All driveways shall be separated from an intersection by at least 20 feet measured from the property line.
- G. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with the following standards:
1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:
    - a. The additional space shall not be allowed if it creates a traffic sight obstruction.
    - b. The additional space have an all-weather surface and be drained to prevent standing water.
  2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.
  3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

## **2.102 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)**

### **2.102.01 Purpose**

The purpose of the R-2 District is to provide areas for the development of a mixture of single-family, townhouse, and duplex uses at a density no greater than 8 units per acre. The R-2 zone is consistent with the Medium Density Residential Comprehensive Plan designation.

### **2.102.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-2 zone:

- A. Single family dwelling unit, including a manufactured home, except that a manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark
- B. Duplex or townhouse
- C. Bed and breakfast establishment, subject to the Site Development Review procedures of Section 3.105
- D. Residential care home
- E. Residential care facility
- F. Day care facilities operating as a group child day care home
- G. Home occupation, subject to the provisions of Section 2.303
- H. Residential accessory structure or use
- I. Parks and open space area
- J. Church
- K. Residential Planned Unit Developments, subject to the provisions of Section 2.302

### **2.102.03 Conditional Uses**

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Public facility, government structure, or communications towers for emergency services

- B. Cemetery
- C. Day care center
- D. Manufactured home park, subject to the standards of Sections 2.105.05 and 2.105.06

## **2.102.04 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the R-2 District except for modifications permitted under Section 2.402, General Exceptions.

### **A. Minimum Lot Area**

- |  |               |
|--|---------------|
| 1. Single-family dwelling  | 5,000 sq. ft. |
| 2. Duplex (not on a corner lot)  | 7,000 sq. ft. |
| 3. Duplex on a corner lot  | 8,500 sq. ft. |
| 4. Townhouse (not on a corner lot)   | 3,500 sq. ft. |
| 5. Townhouse on a corner lot   | 5,000 sq. ft. |
| 6. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks. |               |
| 7. All other uses  | 5,000 sq. ft. |

### **B. Minimum Yard Setback Requirements**

1. All dwellings shall maintain the following minimum yard setbacks:
  - a. Front Yard
 

	15 feet
-- Setback to garage	20 feet
  - b. Rear Yard
 

	15 feet
--	---------
  - c. Side Yard (interior)
 

	5 feet
-- Setback for homes 1½ or 2 stories in height	7 feet
-- Setback for homes 2 ½ or 3 stories in height	9 feet
-- Setback for townhouses	8 feet on one side of dwelling unit with zero setback (0 ft) on opposite side
  - d. Side Yard

(adjacent to street – including townhouses)	15 feet
-- Setback to garage	20 feet

2. All detached accessory structures shall maintain the following minimum side and rear yard setbacks:

a. Rear Yard	5 feet
b. Side Yard	5 feet

#### C. Maximum Structure Height

1. Principle Structure	35 feet
2. Accessory Structure	20 feet

#### D. Lot Width and Depth

The depth of a lot or parcel shall not be more than 2 1/2 times the width of the parcel, with the following exceptions:

1. Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet of semi-private outdoor living space for each unit.
2. Parcels created for public utility uses shall be exempt from width to depth ratio provisions.

### **2.102.05 Development Standards**

All development in the R-2 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. The required number of parking spaces and shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in manufactured home parks are required to install either a garage or carport.
- B. Subdivisions and Partitions: Land divisions shall be reviewed in accordance with the provisions of Section 2.208.
- C. Lot Coverage: The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage allowed.

Maximum lot coverage by structures:	45%
Maximum parking area coverage:	30%
Combined maximum lot and parking area coverage:	70%

- D. Detached accessory structures shall not exceed 1,400 square feet in area, shall be located within the rear yard area and shall comply with maximum lot coverage standards. Portable accessory structures, used as private garage, as defined by this ordinance, may be located within the side portion of a front yard, but must maintain the required front and side yard setbacks and shall not be placed directly in front of an attached or detached garage or carport.
- E. Signs: Signs shall conform to the requirements of Section 2.206.
- F. All driveways shall be separated from an intersection by at least 20 feet measured from the property lines.
- G. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with the following standards:
  - 1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:
    - a. The additional space shall not be allowed if it creates a traffic sight obstruction.
    - b. The additional space have an all-weather surface and be drained to prevent standing water.
  - 2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.
  - 3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.
  - 4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

## **2.103 HIGH DENSITY RESIDENTIAL DISTRICT (R-3)**

### **2.103.01 Purpose**

The purpose of the R-3 Zone is to provide for high density housing opportunities at a density no greater than 12 units per acre. The R-3 zone is consistent with the High Density Residential Comprehensive Plan designation.

### **2.103.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-3 zone:

- A. Single family dwelling unit, including a manufactured home, except that a manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark
- B. Duplex
- C. Multi-family housing, including apartments, townhouses, and condominiums at a density no greater than 12 units per acre, subject to the Site Development Review procedures of Section 3.105
- D. Bed and breakfast establishment, subject to the Site Development Review procedures of Section 3.105
- E. Residential care home and facility
- F. Day care facilities operating as group child day care homes and centers
- G. Home occupation, subject to the provisions of Section 2.303
- H. Parks and open space areas
- I. Church
- J. Residential accessory structure or use
- K. Residential Planned Unit Development, subject to the provisions of Section 2.302

### **2.103.03 Conditional Uses**

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Public facility, government structure, or communications towers for emergency services

B. Cemeteries

C. Manufactured home park, subject to the standards of Sections 2.105.05 and 2.105.06

## **2.103.04 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the R-3 District except for modifications permitted under Section 2.402, General Exceptions.

### **A. Minimum Lot Area and Density Standards**

- |  |                        |
|--|------------------------|
| 1. Single-family dwelling  | 5,000 square feet      |
| 2. Duplex (not on a corner lot)  | 7,000 square feet      |
| 3. Multi-family dwelling (three or more units)   | 3,630 sq. ft. per unit |
| 4. Duplex on a corner lot  | 8,500 sq. ft.          |
| 5. Townhouse (not on a corner lot)   | 3,500 sq. ft.          |
| 6. Townhouse on a corner lot   | 5,000 sq. ft.          |
| 7. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks. |                        |

### **B. Minimum Yard Setback Requirements**

- |   |   |
|---|---|
| 1. All principal and accessory structures shall maintain the following minimum yard setbacks: |   |
| a. Front Yard   | 15 feet   |
| -- Setback to garage  | 20 feet   |
| b. Rear Yard  |   |
| -- One Story  | 10 feet   |
| -- More than one story  | 15 feet   |
| c. Side Yard (interior)   | 7 feet  |
| Side Yard   |   |
| (adjacent to street – including townhouses)   | 15 feet   |
| -- Setback to garage  | 20 feet   |
| -- Setback for townhouses   | 8 feet on one side of dwelling unit with zero setback (0 ft) on opposite side |



2. All detached accessory structures shall maintain the following minimum side and rear yard setbacks:

- |              |        |
|--------------|--------|
| a. Rear Yard | 5 feet |
| b. Side Yard | 5 feet |

C. Maximum Structure Height

- |                        |         |
|------------------------|---------|
| 1. Principle Structure | 35 feet |
| 2. Accessory Structure | 20 feet |

D. Lot Width and Depth

The depth of a lot or parcel shall not be more than 2 1/2 times the width of the parcel, with the following exceptions:

1. Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet of semi-private outdoor living space for each unit.
2. Parcels created for public utility uses shall be exempt from width to depth ratio provisions.

**2.103.05      Development Standards**

All development in the R-3 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. The required number of parking spaces and shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in manufactured home parks are required to install either a garage or carport.
- B. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208
- C. Lot Coverage. The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage allowed.

Maximum lot coverage by structures:	50%
Maximum parking area coverage:	30%
Combined maximum lot and parking area coverage:	70%

- D. Multi-family residential uses (three units or more) shall comply with the following standards:
1. Multi-family developments shall be subject to the Site Development procedures in Section 3.105.
  2. All multi-family residential structures within a development shall maintain a minimum horizontal separation distance of 15 feet.
  3. Access points to public streets shall minimize traffic congestion and avoid directing traffic onto local access streets.
- E. Play Area Requirements. Multi-family dwellings with four (4) or more units - minimum 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom, or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard setback requirements.
- F. Signs. Signs shall conform to the requirements of Section 2.206.
- G. For single-family residences and duplexes, detached accessory structures shall not exceed 1,400 square feet in area, shall be located within the rear yard area and shall comply with maximum lot coverage standards. For multi-family developments, detached accessory structures shall not exceed 264 square feet per unit, shall be located within the rear yard area and shall comply with maximum lot coverage standards.
- Portable accessory structures, used as a private garage, as defined by this ordinance, may be located within the side portion of a front yard, but must maintain the required front and side yard setbacks and shall not be placed directly in front of an attached or detached garage or carport.
- H. Driveways shall be separated from an intersection by at least 20 feet measured from property lines.
- I. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with the following standards:
1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front

of the required side yard located closest to the driveway subject to the following conditions:

- a. The additional space shall not be allowed if it creates a traffic sight obstruction.
  - b. The additional space have an all-weather surface and be drained to prevent standing water.
2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.
3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.
4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

## **2.104 RESIDENTIAL-COMMERCIAL DISTRICT (RC)**

### **2.104.01 Purpose**

The purpose of the RC District is to provide for a mix of housing types and limited commercial activities. The residential density shall be no greater than 12 units per acre. The RC District is consistent with the High Density Residential Comprehensive Plan designation.

### **2.104.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RC District:

- A. The following residential and non-commercial uses are permitted in the RC District:
  - 1. Single family dwelling unit, including a manufactured home except that a manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark
  - 2. Duplex
  - 3. Multi-family housing, including apartments, townhouses, and condominiums at a density no greater than 12 units per acre, subject to the Site Development Review procedures of Section 3.105
  - 4. Bed and breakfast establishment, subject to the Site Development Review procedures of Subsection 3.105
  - 5. Residential care home and facility
  - 6. Day care facilities operating as group child care homes and centers
  - 7. Home occupation, subject to the provisions of Section 2.303
  - 8. Residential accessory structure or use
  - 9. Parks and open space areas
  - 10. Church
  - 11. Residential Planned Unit Developments, subject to the provisions of Section 3.107
- B. The following commercial uses are permitted, subject to the Site Development Review procedures of Section 3.105 and the development standards listed in Section 2.300:
  - 1. Professional office

2. Retail trade and service operation having a maximum floor area of 2,500 square feet
3. Restaurant, except those with drive-through facilities

#### **2.104.03 Conditional Uses**

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Uses operating before 7:00 AM or after 10:00 PM
- B. Public facility, government structure, or communications towers for emergency services
- C. Cemeteries

#### **2.104.04 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the RC District except for modifications permitted under Section 2.402, General Exceptions.

##### **A. Minimum Lot Area and Density Standards**

1. Single-family dwelling 5,000 square feet
2. Two-family dwelling (duplex) 7,000 square feet
3. Townhouse (not on a corner lot) 3,500 square feet
4. Multi-family dwelling (three or more units) 3,630 sq. ft. per unit
5. Commercial Use 5,000 square feet
6. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks.
7. All other uses (including townhouse on a corner lot) 5,000 square feet
8. Commercial uses on properties located within the 99E overlay zone shall comply with lot area requirements according to the Commercial General (C) zone district.

##### **B. Minimum Yard Setback Requirements**

1. All principal structures shall maintain the following minimum yard setbacks:
  - a. Front Yard 15 feet

- Setback to garage 20 feet
- b. Rear Yard
  - One Story 10 feet
  - More than one story 15 feet
- c. Side Yard (interior) 7 feet
  - Side Yard
    - (adjacent to street – including townhouses) 15 feet
    - Setback to garage 20 feet
    - Setback for townhouses 8 feet on one side of dwelling unit with zero setback (0 ft) on opposite side
- 2. All detached accessory structures shall maintain the following minimum side and rear yard setbacks:
  - a. Rear Yard 5 feet
  - b. Side Yard 5 feet
- 3. Commercial uses on properties located within the 99E overlay zone shall comply with setback requirements according to the Commercial General (C) zone district.

C. Maximum Structure Height

- 1. Principle Structure 35 feet
- 2. Accessory Structure 20 feet
- 3. Commercial uses on properties within the 99E overlay zone shall comply with height requirements according to the Commercial General (C) zone district.

**2.104.05 Development Standards**

All development in the RC District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. The required number of parking spaces shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in manufactured home parks are required to install either a garage or carport.

Commercial uses on properties located within the 99E overlay zone shall comply with parking requirements according to the Commercial General (C) zone district.

- B. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208.

- C. Lot Coverage. The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage allowed.

Maximum lot coverage by structures:	50%
Maximum parking area coverage:	30%
Combined maximum lot and parking area coverage:	70%

The lot coverage standard only applies to residential dwellings.

- D. Multi-family residential uses (three units or more) shall comply with the following standards:
1. Multi-family developments shall be subject to the Site Development procedures in Section 3.105.
  2. All multi-family residential structures within a development shall maintain a minimum horizontal separation distance of 15 feet.
  3. Access points to public streets shall minimize traffic congestion and avoid directing traffic onto local access streets.
- E. Play Area Requirements. Multi-family dwellings with four (4) or more units - minimum 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom, or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard set-back requirements.
- F. Detached residential accessory structures shall not exceed 1,400 square feet in area, shall be located within the rear yard area, and shall comply with maximum lot coverage requirements. Portable accessory structures, used as a private garage, as defined by this ordinance, may be located within the side portion of a front yard, but must maintain the required front and side yard setbacks and shall not be placed directly in front of an attached or detached garage or carport.
- G. Commercial Uses shall comply with the following standards:
1. The activity shall be conducted wholly within an enclosed structure.
  2. The maximum lot size for any commercial use shall be one acre.
  3. The lot shall abut a collector or arterial street.
  4. Uses operating before 7:00 AM or after 10:00 PM shall be a conditional use subject to the provision of Section 3.103.
  5. Commercial uses shall not engage in the manufacturing, processing, assembly or compounding of products other than those clearly incidental to the business conducted on the premises.

6. The conduct of any business activity shall not generate or produce noise, odor, dust, smoke, vibration or other similar impact.
  7. Access points to public streets shall minimize traffic congestion and avoid directing traffic onto local access streets.
  8. A minimum of 10 percent of the gross site area shall be devoted to landscaping in commercial developments.
  9. Commercial uses in the RC District shall be subject to the Site Development Review procedures of Section 3.105.
- H. Signs. Signs shall conform to the requirements of Section 2.206.
- I. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with the following standards:
1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:
    - a. The additional space shall not be allowed if it creates a traffic sight obstruction.
    - b. The additional space have an all-weather surface and be drained to prevent standing water.
  2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.
  3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.
  4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.



## **2.105 MANUFACTURED HOME DISTRICT (MH)**

### **2.105.01 Purpose**

The purpose of the MH District is to provide opportunities for manufactured home parks at a density no greater than 8 units per acre. The MH District is consistent with the Medium Density Residential Plan designation.

### **2.105.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the MH District:

- A. Manufactured homes in subdivisions
- B. Manufactured home parks
- C. Residential care home and facility
- D. Group Child Day Care Homes and Centers
- E. Home occupation, subject to the provisions of Section 2.303
- F. Parks and open space areas
- G. Residential accessory structure or use

### **2.105.03 Conditional Uses**

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Public facility, government structure, or communications towers for emergency services

### **2.105.04 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the MH District except for modifications permitted under Section 2.402, General Exceptions.

#### **A. Subdivision - Minimum Area Lot Area and Density Requirements**

- |                           |                   |
|---------------------------|-------------------|
| 1. Single-family dwelling | 5,000 square feet |
| 2. One duplex             | 7,000 square feet |

3. Maximum density 8 units per acre
4. Minimum Yard Setback Requirements
  - a. Front Yard 15 feet  
--Setback to garage 20 feet
  - b. Rear Yard  
-- One Story 10 feet  
-- More than one story 15 feet
  - c. Side Yards (interior) 5 feet  
Side Yards (adjacent to street) 15 feet

B. Manufactured Home Parks - Minimum Area Requirements

1. Minimum park size Three (3) acres
2. Minimum space size 5,000 square feet
3. Minimum Yard Setback Requirement  
- The manufactured home park shall be set back 20 feet from all property lines.

C. Maximum Structure Height/Subdivision. Lots of Record, and Parks

1. Principle Structure 35 feet
2. Accessory Structure 20 feet

**2.105.05 Manufactured Home Park Development Standards**

- A. Any lot or site used for a manufactured home park and any modifications to a manufactured home park shall comply with the provisions of ORS 446.002 to ORS 446.210 and Manufactured Home Park Standards, adopted as Oregon Administrative Rule, Chapter 814, Subdivision 3, Manufactured Home Parks, Sections 28.010 to 28.170, inclusive.
- B. The maximum density of a manufactured home park shall not exceed 8 units per gross acre.
- C. Each manufactured home shall have five (5) foot side yards and ten (10) foot front and rear yard setback from the space line.
- D. No part of any manufactured home park shall be used for the parking or storage of any heavy equipment or trucks.

- E. A recreation area equal to ten (10) percent of the gross site area shall be provided in all manufactured home parks. Such area shall be accessible to all manufactured home units in the park. Buffer areas and planting strips shall not be included in recreation area calculations unless developed for walking, jogging or other recreational purposes approved by the Planning Commission. Recreation areas shall be limited to recreation uses, centrally located within the development, and walking/jogging trails shall be either asphalt or concrete.
- F. A caretaker, owner or manager shall be responsible for keeping the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition.
- G. Landscaped buffer areas shall be developed around the perimeter of all manufactured home parks. Buffering shall comply with the standards of Section 2.207.
- H. Access drives shall be provided to each space, shall be continuous, shall connect with a public street, and shall have a minimum width of twenty-four (24) feet for interior circulation. The street width is measured curb to curb with sidewalks on both sides of the street and restricted on-street parking. The point of access to the public street shall be at least thirty-two (32) feet in width, measured curb to curb, with sidewalks on both sides of the street.
- I. Access drives shall be developed to the standards of Section 2.202. This includes the requirements applied to private streets for turn-arounds, Section 2.202.07. Developments completed in phases shall provide turn-around separately to each phase until street connections are constructed.
- J. A minimum of two off-street parking spaces shall be provided for each unit and additional off-street spaces for visitor parking that is based on the following:
  - 1. provided at the rate of one (1) space for every five (5) manufactured home spaces when parking is permitted on either both sides of the street or is restricted to parking on one side of the street,
  - 2. provided at the rate of two (2) spaces per manufactured home space when there is no on-street parking,
  - 3. located centrally adjacent open space or play areas, and
  - 4. marked indicating the area as restricted to guests.

Parking spaces shall be constructed according to the requirements in Section 2.203.

- K. All units in the manufactured home park shall be manufactured homes as defined in Section 1.200 of this Ordinance and constructed according to State regulations for manufactured homes.

- L. The walkway system shall provide safe, convenient, all-season pedestrian access from each manufactured home to the driveway. All walks must be hard-surfaced, well-drained and not less than 48 inches in width. All walks adjacent to driveways and on both sides of the internal streets/accessways shall be curb lined walks.
- M. Provision for lighting of all access drives shall be made. Lighting may consist of an individual light at each space or street lights installed to the standards of the utility district.
- N. Manufactured home parks shall also comply with the applicable provisions of Section 2.200, General Development Standards.

**2.105.06 Process**

Manufactured home parks shall be subject to the Site Development Review procedures of Section 3.105. Submittal requirements and review procedures shall be as specified in that Section. Approval shall not be granted unless all provisions of this Section and other applicable requirements of this Ordinance are met.

## **2.106 COMMERCIAL DISTRICT (C)**

### **2.106.01 Purpose**

The purpose of the Commercial District is to provide areas for the broad range of commercial operations and services required in the central business district and other areas to meet the economic needs of the City of Hubbard. The Commercial District is consistent with the Commercial Comprehensive Plan designation.

### **2.106.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the C District:

- A. Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, department stores, gas stations and sporting goods stores
- B. Retail service establishments offering services and entertainment to the general public for personal or household consumption such as eating and drinking establishments, motels, hotels, banks, real estate and financial services
- C. Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services and consulting services
- D. Offices and clinics such as doctor and dentist offices, veterinary clinics and law offices
- E. Dwelling units accessory to a permitted use or above a permitted use
- F. Group day care homes and centers
- G. Residential care home and residential care facility
- H. Amusement and recreational services
- I. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications antennas or towers
- J. Church
- K. Automobile sales, both new and used, recreational vehicles, recreational unit, and light trailer sales.

### **2.106.03 Conditional Uses**

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Church
- B. Except as provided in Section 2.304, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building
- C. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas
- D. Automotive repair

### **2.106.04 Dimensional Standards**

The following minimum dimensional standards, with the exception of modifications permitted under Section 2.402, shall be required for all development in the Commercial District.

- A. Minimum lot area: No limitation
- B. Minimum yard setbacks:
  - 1. Front Yard None\*  
\* - Abutting Highway 99E 20 feet
  - 2. Rear Yard
    - Abutting a non-residential district None
    - Abutting a residential district 15 feet
  - 3. Side Yard
    - Abutting a non-residential district None
    - Abutting a residential district 15 feet
- C. Maximum structure height: 45 feet

### **2.106.05 Development Standards**

All developments in the Commercial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. Off-street parking shall be as specified in Section 2.203.
- B. Signs. Signs in the Commercial District shall be subject to the provisions of Section 2.206.
- C. Landscaping. All development is subject to the landscaping provisions in Section 2.207.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. Design Review. All new development and expansion of an existing structure or use in the Commercial District shall be subject to the Site Development Review procedures of Section 3.105.
- F. Outdoor Display. There shall be no outdoor display or storage of materials or merchandise within a designated alleyway, roadway or sidewalk that would impede pedestrian or vehicular traffic except during community retail sales events. Safety precautions shall be observed at all times. Outdoor display shall only be permitted between the hours of 7am and 10pm unless the display items are screened pursuant to Section 2.207.
- G. Access. Approaches and driveways shall be subject to provisions of Section 2.202.

## **2.107 INDUSTRIAL DISTRICT (I)**

### **2.107.01 Purpose**

The purpose of the Industrial District is to provide areas for general industrial activities which do not produce excessive smoke, dust, noise, vibration, smell or harmful substance to meet the economic needs of the City of Hubbard. The Industrial District is consistent with the Industrial Comprehensive Plan designation.

### **2.107.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the Industrial District:

- A. Establishments engaged in manufacturing, processing, packing, assembly, distribution, repair, finishing or refinishing, testing, fabrication, research and development, warehousing and servicing activities. Examples of uses that would be appropriate include: aircraft or auto parts, bottling plants, bakery products, communication equipment, drugs, fabricated textile products, office machines, building materials, recycling centers, and motor freight terminals; and
- B. Warehouse and outdoor storage activities.
- C. Automotive repair
- D. Manufactured home sales

### **2.107.03 Conditional Uses**

The following uses may be permitted in the Industrial District when authorized by the Planning Commission pursuant to Section 3.103.

- A. Extraction and processing of minerals, rock, or other earth products
- B. Automotive dismantling, wrecking and salvage yard
- C. Fuel oil distribution
- D. Manufacturing, processing or storage of explosive, flammable or toxic products
- E. Welding operations
- F. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas.
- G. Caretaker residence subject to the following requirements:



1. Establishment of caretaker residence shall be subject to the Site Development Review requirements of Section 3.105.
  2. Only one residence is allowed per tract of land.
  3. The residence is limited to a manufactured or mobile home or a park trailer or recreational park trailer as defined by this ordinance or the residence is incorporated into the building design for an associated business on the property.
  4. Installation of a park trailer or a recreational park trailer shall comply with the requirements of Oregon Administrative Rules Chapter 918, Division 530 and shall be connected to public utilities.
  5. No variance shall be granted for any of the requirements in this section.
- H. Large-scale amusements facilities, such as a gymnasium, skating rink, pool or race track.
- I. Other uses determined by the Planning Commission to be of similar character to those specified above

#### **2.107.04 Dimensional Standards**

The following dimensional standards, with the exception of modifications allowed under Section 2.200, shall be required for all development in the Industrial District.

A. Lot Size: None

B. Setback Requirements:

- |  |         |
|--|---------|
| 1. Front yard                                  | 20 feet |
| 2. Side yard                                   |         |
| -Abutting a residential or commercial district | 25 feet |
| -Abutting an industrial district               | 10 feet |
| 3. Rear Yard                                   |         |
| -Abutting a residential or commercial district | 25 feet |
| -Abutting an industrial district               | 10 feet |

C. Maximum Building Height: 80 feet

#### **2.107.05 Development Standards**

All development in the Industrial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. Off-street parking in the Industrial District shall conform to the standards of Section 2.203.
- B. Signs. Signs in the Industrial District shall conform to the provisions of Section 2.206.
- C. Landscaping. All development is subject to landscaping provisions in Section 2.207.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. Design Review. All new development or expansion of existing structure or use in the Industrial District shall be subject to the Site Development Review procedures of Section 3.105.
- F. Outdoor storage. Outdoor storage shall be screened pursuant to the landscaping standards listed in Section 2.207.
- G. Access. Approaches and driveways shall be subject to provisions of Section 2.202.

## **2.108 INDUSTRIAL-COMMERCIAL DISTRICT (IC)**

### **2.108.01 Purpose**

The purpose of the IC (Industrial-Commercial) District is to provide areas suitable for light industrial uses, light industrial uses with related commercial sales, commercial retail uses and wholesale commercial sales. The IC District is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to a collector street, arterial street or highway, and permitted uses will not adversely impact local streets or residential districts.

### **2.108.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the Industrial-Commercial District:

- A. all uses permitted in the Industrial (I) District;
- B. building material, hardware and garden supply sales;
- C. retail sales accessory to a permitted industrial use;
- D. other retail uses which are permitted in the Commercial District; and
- E. wholesale commercial sales.

### **2.108.03 Conditional Uses**

The following uses may be permitted in the Industrial-Commercial District when authorized by the Planning Commission pursuant to Section 3.103:

- A. all uses permitted conditionally in the Industrial District; and
- B. office uses not associated with a permitted use.

### **2.108.04 Dimensional Standards**

The following dimensional standards, with the exception of modifications allowed under Section 2.201, shall be required for all development in the Industrial-Commercial District.

- A. Lot Size: None
- B. Setback Requirements:
  - 1. Front yard 20 feet

- 2. Side yard
  - Abutting a residential or commercial district 25 feet
  - Abutting an industrial district 10 feet
- 3. Rear Yard
  - Abutting a residential or commercial district 25 feet
  - Abutting an industrial district 10 feet
- C. Maximum Building Height: 80 feet

**2.108.05 Development Standards**

All development in the Industrial-Commercial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-Street Parking. Off-street parking in the Industrial-Commercial District shall conform to the standards of Section 2.203.
- B. Signs. Signs in the Industrial-Commercial District shall conform to the provisions of Subsection 2.206.
- C. Landscaping. All development is subject to landscaping provisions in Section 2.207.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. Design Review. All new development or expansion of existing structure or use in the Industrial-Commercial District shall be subject to the Site Development Review procedures of Section 3.105.
- F. Access. Site access points shall be located to minimize traffic hazards and development is subject to provisions in Section 2.202.

## **2.109 PUBLIC USE DISTRICT (PU)**

### **2.109.01 Purpose**

The purpose of the Public Use District is to recognize existing public facility land uses and to provide for the development of public facility services and other public-oriented uses. The PU District shall be consistent with the PU Comprehensive Plan designation.

### **2.109.02 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the Public Use (PU) District:

A. Governmental, educational, administrative or public facility uses including but not limited to the following:

1. public parks and recreation areas;
2. public schools;
3. public storage yards for machinery, equipment and other materials;

and

4. sewer treatment and lagoon areas.

B. churches; and

C. service clubs and lodges.

### **2.109.03 Conditional Uses**

The following uses may be permitted in the PU District when authorized by the Planning Commission pursuant to Section 3.103.

A. Public airport or heliport

B. Public and private utility buildings and structures, including but not limited to electric stations, telephone exchanges and communications antennas or towers

### **2.109.04 Dimensional Standards**

A. Lot Size: None

B. Setback Requirements:

1. Front Yard 20 feet

- |                                   |         |
|-----------------------------------|---------|
| 2. Side Yard                      |         |
| -Abutting a non-residential zone  | 5 feet  |
| -Abutting a residential zone      | 20 feet |
| 3. Side Yard adjacent to a street | 20 feet |
| 4. Rear Yard                      | 20 feet |
| 5. Rear Yard adjacent to a street | 20 feet |
| C. <u>Maximum Building Height</u> | 35 feet |

## **2.109.05 Development Standards**

All development in the PU District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

- A. Off-street Parking. Off-street parking in the PU District shall conform to the standards of Subsection 2.203.
- B. Signs. Signs in the PU District shall conform to the provisions of Subsection 2.206.
- C. Landscaping. All development is subject to landscaping provisions in Section 2.207.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. Design Review. All new development of expansion or an existing structure or use in the PU District shall be subject to the Site Development Review procedures of Section 3.105.
- F. Access. Site access points shall be located to minimize traffic hazards and approaches and driveways shall be subject to provisions of Section 2.202.

## **2.110 FLOODPLAIN OVERLAY ZONE**

### **2.110.01 Statutory Authorization**

The Legislature of the State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Hubbard, does ordain as follows:

### **2.110.02 Findings of Fact**

- A. The flood hazard areas of Hubbard are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

### **2.110.03 Purpose**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **2.110.04 Methods of Reducing Flood Losses**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

#### **2.110.05 Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**Appeal:** A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding:** A designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**Area of Special Flood Hazard:** The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.



**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway Wall:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Critical Facility:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**Elevated Building:** For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study:** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 2.110.19(A).

**Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New Construction:** Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

**Recreational Vehicle:** A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Start of Construction:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure:** A walled and roofed building including a gas or liquid storage tank that is principally above ground.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Variance:** A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

**Water Dependent:** A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

**2.110.06      Applicability**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Hubbard.

**2.110.07      Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the Marion County,” with accompanying Flood Insurance Maps, as amended by the study and maps that became effective January 2000, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at the Hubbard City Hall, 3720 2<sup>nd</sup> Street.

**2.110.08      Penalties for Noncompliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to the provisions of Section 1.102.03 of the Development Code.

**2.110.09      Abrogation and Greater Restrictions**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**2.110.10      Interpretation**

In the interpretation and application of this ordinance, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and,

C. Deemed neither to limit or repeal any other powers granted under State statutes.

#### **2.110.11 Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Hubbard, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **2.110.12 Development Permit Required**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 2.110.07. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also as set forth in the “Definitions.”

#### **2.110.13 Application for Development Permit**

Application for a development permit shall be made on forms furnished by the City of Hubbard may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 2.110.19(B); and
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

#### **2.110.14 Floodplain Administration**

The City Recorder or Recorder's designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

Duties of the floodplain administrator shall include, but not be limited to:

- A. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- B. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- C. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 2.110.20(A) are met.

#### **2.110.15 Use of Other Base Flood Data**

When base flood elevation data has not been provided in accordance with Section 2.110.07, Basis for Establishing the Areas of Special Flood Hazard, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 2.110.19, Specific Standards for Flood Hazard Reduction, and 2.110.20 Floodways.

#### **2.110.16 Information to be Obtained and Maintained**

- A. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 2.110.14, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- B. For all new or substantially improved floodproofed structures:
  - 1. Verify and record the actual elevation (in relation to mean sea level), and
  - 2. Maintain the floodproofing certifications required in Section 2.110.12(C).
  - 3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### **2.110.17 Alteration of Watercourses**

- A. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- B. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### **2.110.18 Interpretation of FIRM Boundaries**

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

#### **2.110.19 Provisions for Flood Hazard Reduction**

In all areas of special flood hazards, the following standards are required:

##### **A. Anchoring**

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

##### **B. Construction Materials and Methods**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

##### **C. Utilities**

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.



#### D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### E. Review of Building Permits

1. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 2.110.14), Applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

### **2.110.20 Specific Standards for Flood Hazard Reduction**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 2.110.07, Basis for Establishing the Areas of Special Flood Hazard or Section 2.110.14, Use of Other Base Flood Data, the following provisions are required:

#### A. Residential Construction

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### B. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- 1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 2.110.12(C);
- 4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 2.110.19(A)(2);
- 5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below that level).

#### C. Manufactured Homes

- 1. Specific provisions for flood hazard reduction apply to all manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision,

- b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood.
2. Manufactured homes, as described in subsection (1) above, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.
  3. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community’s FIRM that are not subject to the above manufactured home provisions be elevated so that either:
    - a. The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or
    - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

#### D. Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community’s FIRM either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of Section 2.110.19(C) and the elevation and anchoring requirements for manufactured homes.

### **2.110.21 Floodways**

Located within areas of special flood hazard established in Section 2.110.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to

the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Section 2.110.20(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 2.110.19, Specific Standards for Flood Hazard Reduction.

#### **2.110.22 Encroachments**

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

#### **2.110.23 Standards for Shallow Flooding Areas (AO Zones)**

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- B. New construction and substantial improvements of nonresidential structures within AO zones shall either:
  - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
  - 2. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 2.110.19(B)(3).

3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO Zones on the community's FIRM shall either:
  - a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c. Meet the requirements of Section 2.110.22 and the elevation and anchoring requirements for manufactured homes.

## **2.111 HIGHWAY 99E OVERLAY ZONE**

### **2.111.01 Purpose**

The purpose of the Highway 99E Overlay Zone is to recognize the Highway 99E frontage as the primary commercial area of Hubbard and allow for the widest possible variety of commercial uses on properties that are appropriately located as permitted in the Zoning Ordinance.

### **2.111.02 Area of Application**

The Highway 99E Overlay Zone may be applied only to property that has frontage along State Highway 99E in Hubbard and which is also zoned Residential Commercial (RC).

### **2.111.03 Permitted Uses**

The uses permitted in the Highway 99E Overlay Zone shall be the same as those permitted in the Commercial General (CG) Zone, in addition to those permitted in the underlying RC Zone.

### **2.111.04 Development Standards**

The requirements for height limitations, yard areas and setbacks, lot area and parking for any use permitted in the CG Zone shall be the same as in the CG Zone.

The development standards for any use permitted in the RC Zone shall remain the same as in the RC Zone.

## **2.200 GENERAL DEVELOPMENT STANDARDS**

### **2.201 GENERAL PROVISIONS**

#### **2.201.01 Purpose**

The purpose of this Section is to:

- A. carry out the Comprehensive Plan with respect to development standards and policies;
- B. insure that natural features of the landscape, such as land forms, natural drainage-ways, trees and wooded areas, are preserved as much as possible and protected during construction;
- C. promote energy conservation and efficiency in development through site planning and landscaping;
- D. promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods; and
- E. provide an economical, safe, accessible, and multi-modal transportation system for the community.

#### **2.201.02 Application of Standards**

- A. The standards set forth in Section 2.200 shall apply to partitions; subdivisions; planned unit developments; commercial, industrial, and institutional projects; single family dwellings, duplexes and multi-family structures of three (3) or more dwellings.
- B. The application of these standards to a particular development shall be modified as follows:
  - 1. development standards which are unique to a particular use, or special use, shall be set forth within the district or in Section 2.300; and
  - 2. those development standards which are unique to a particular district shall be set forth in the Section governing that district.

#### **2.201.03 Application of Public Facility Standards**

Standards for the provision and utilization of public facilities or services available within the City of Hubbard shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured in accordance with Section 3.201.01. Public facility

improvements shall be designed in conformance with the most current Public Works Design Standards and be installed according to City Engineer approval.

**Public Facilities Improvement Requirements Table**

	<b>Fire Hydrant</b>	<b>Street Improv.</b>	<b>Water Hookup</b>	<b>Sewer Hookup</b>	<b>Storm Drain</b>	<b>Street Lights</b>
Single Family Dwelling & Duplex	No	C-2	Yes	Yes	Yes	No
Multifamily Dwelling	Yes	Yes	Yes	Yes	Yes	Yes
New Commercial Building	Yes	Yes	Yes	Yes	Yes	Yes
Commercial Change of Occupancy or Expansion	C-1	C-3	Yes	Yes	Yes	Yes
New Industrial Building	Yes	Yes	Yes	Yes	Yes	Yes
Industrial Change of Occupancy or Expansion	C-1	C-3	Yes	Yes	Yes	Yes
Partitions, Subdivisions, PUD, and Mobile Home Parks	Yes	Yes	Yes	Yes	Yes	Yes

Legend: No = Not required, Yes = Required, and C = Conditional, as noted.

**C-1. Fire Hydrants for Commercials, Industrial, or Institutional Expansions**

One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.

**C-2. Street Improvements for Single Family Dwellings**

New single family dwellings which require a street extension must provide street improvements to City street standards.

**C-3. Street Improvements for Commercials, Industrial, or Institutional Expansions**

Lots fronting on County roads must obtain access permits from the Marion County Public Works Department.

Lots fronting on Highway 99E must obtain access permits from The Oregon Department of Transportation (ODOT).



## **2.202 STREET STANDARDS**

### **2.202.01 Purpose**

- A. The purpose is to provide for safe, efficient, convenient multi-modal movement in the City of Hubbard;
- B. to provide adequate access to all proposed developments in the City of Hubbard;  
and
- C. to provide adequate area in all public rights-of-way for sidewalks, bikeways, parkway strips, sanitary sewers, storm sewers, water lines, natural gas lines, power lines and other utilities commonly and appropriately placed in such rights-of-way.
- D. Preserve and protect the existing and intended function of the road and other transportation facilities.
- E. Ensure that land uses authorized under Comprehensive Plan Map and Zoning Map amendments are consistent with the identified function, capacity, and level of service of transportation facilities.

For purposes of this section:

- 1) "adequate access" means direct routes of travel between destinations, such as between residential neighborhoods and parks or commercial developments.
- 2) "adequate area" means space sufficient to provide all required public services to standards defined in this code, such as sidewalks, bikeways or storm sewers.

### **2.202.02 Scope**

The provisions of this Section shall be applicable to:

- A. the creation, dedication or construction of all new public or private streets, pedestrian facilities, and bikeways in all subdivisions, partitions or other developments in the City of Hubbard;
- B. the extension or widening of existing public or private street rights-of-way, easements or street improvements including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals;
- C. the construction or modification of any utilities, sidewalks, or bikeways in public rights-of-way or private street easements; and

- D. the planting of any street trees or other landscape materials in public rights-of-way (parkway strip).

### **2.202.03 General Provisions**

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets in the City of Hubbard. These provisions are intended to provide a general overview of typical minimum design standards. All streets shall be designed in conformance of the specific requirements of the most current Public Works Standards and the Transportation System Plan of the City of Hubbard.

- A. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.
- B. Development proposals shall provide for the continuation of all streets, bikeways and pedestrian facilities within the development and to existing and planned streets, bikeways, and pedestrian facilities outside the development.
- C. Alignment. All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall, wherever practical, be avoided. However, when not practical, the "T" intersections shall leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet.
- D. Future Extension of Streets and Location of New Streets. Where necessary to give access to, or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of a tract being developed and the resulting dead-end streets may be approved without turn-a-rounds, upon approval by emergency service agencies. Reserve strips and street plugs may be required to preserve the objectives of street extensions. The Transportation System Plan indicates the conceptual location of arterial and collector street extensions and new collector streets in order to preserve street function and promote the development of an efficient network of city streets and connections to state and county roads.
- E. Radius at Street Intersections. The property line radius at street intersections that have a designated right-of-way width of 30 feet or more shall be governed by the interior angle at the intersection and will be based on the square root of the interior angle formed at the intersection of the property lines which equals the radius in feet. The distance shall be increased to the next full foot above the figure established by said formula.  
The minimum angle of the intersection shall be 40 degrees.

F. Existing Streets. Whenever existing public streets adjacent to, or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning or development.

1. Full street improvements to all existing streets adjacent to, within or necessary to serve the property shall be required at the time of land division or development unless the applicant demonstrates to the satisfaction of the City Engineer that the condition and sections of the existing streets meet the City standards and are in satisfactory condition to handle projected traffic loads. Storm water drainage shall be provided for on the non-curbed side of the full street improvements as required by the City Engineer. In cases where the property with a land division or development fronts both sides of an existing street, full street improvements shall be required. The party paying the costs for improvements may require buyers along the improved area to reimburse improvement costs for up to ten (10) years. Each lot should pay a proportional amount of the total improvement costs if reimbursement is pursued.

Reserve strips and street plugs shall be dedicated, deeded, and installed to preserve the objectives of the full street prior to street construction.

2. The City may allow the applicant to record an approved "Waiver of Rights to Remonstrate for Street and Public Utility Improvements" in lieu of street improvements where the following criteria are met.

Alternatives include:

- a. The contiguous length of the existing street to be improved (including the portion of the existing street which must be improved to serve the development) is less than 250 feet, and
  - b. The existing roadway conditions and sections are adequate to handle existing and projected traffic loads, and
  - c. Existing public utilities (water, sanitary sewer, and storm sewer) located within the existing roadway are adequate, or can be improved without damaging the existing roadway surface.
3. In lieu of the street improvement requirements outlined in Section 2.204.03 (F) (I) above, the Planning Commission, under a Type II procedure, may elect to accept from the applicant moneys to be placed in a fund dedicated to the future reconstruction of the subject street(s). The amount of moneys deposited with the City shall not be greater than 100 percent of the estimated cost of the full street improvements (including associated storm drainage improvements). Cost estimates shall be based from a preliminary design of the reconstructed street provided the applicant's engineer and shall be approved by the City Engineer. If the City Council elects to accept these

moneys in lieu of the street improvements, the applicant shall also record against all lots or parcels a "Construction Deferral Agreement and Waiver of Rights to Remonstrate for Street and Storm Drainage Improvements" approved by the City Attorney. The construction deferral agreement should be worded such that the subject properties will be responsible for paying a minimum of 50 percent of the costs of the future street and storm drainage improvements to the subject street minus the value (at the time the street is constructed) of the money deposited with the City by the applicant plus an accumulated interest, e.g. (50 percent minus (deposit plus interest)). A separate "Waiver of Rights to Remonstrate" may be required for future improvements or other public utilities.

4. All required public utilities shall be installed as part of the street construction process.

G. Cul-de-sacs. The use of cul-de-sacs and other dead-end streets shall be discouraged and shall only be approved upon showing by the applicant of unusual or unique circumstances justifying the use of such a street. In cases where cul-de-sacs are determined to be justified they shall only be permitted subject to the following conditions:

1. There shall be no cul-de-sacs more than 400 feet in length.
2. All cul-de-sacs shall terminate with circular turn-arounds, except where the Planning Commission finds that a "pear" or "hammerhead" turnaround is more appropriate given the topography, natural, or built features, and expected use. Such variations shall be approved by the City Engineer and emergency services providers.
3. An accessway shall be provided consistent with the standards as determined by the Planning Commission to be necessary to insure safe, efficient, and convenient multi-modal access.

For the purpose of this section, "unusual or unique circumstances" exist when slopes are 8 percent or more, wetlands or a body of water are present, existing development on adjacent property prevents a street connection.

For the purpose of this section "accessway" means a walkway that provides pedestrian and/or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and the adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices including landscaping, trees, and lighting. Where accessways cross

driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

- H. Street Names. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission, City staff, and emergency service agencies.
- I. Grades and Curves. Grades shall not exceed 8 percent on public or private streets. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.
- J. Marginal Access Streets. If a development abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Consideration shall be given for pedestrian routes.
- K. Clear Vision Areas. Clear vision areas shall be maintained on corner lots at the intersection of all public streets and at the intersections of a public street with a private street, alley or drive which serves more than three parcels. No structure or planting shall be permitted within a clear vision area which would impede visibility between a height of 30 inches and 10 feet above the curb grade of the intersecting streets.

Clear vision areas are as defined in Section 1.200 (definitions), 2.203.07(1) and 2.209.07.

- L. Driveways and points of access. Approaches shall be constructed according to City standards for residential and commercial users and shall meet the minimum separations of five (5) feet between residential driveways, 22 feet between commercial, industrial, and institutional driveways, and 20 feet from an intersection for local streets. Spacing standards for private driveways onto major and minor arterial, and collector streets shall conform to the standards established in the street design section of the Transportation System Plan. The separation shall be measured between the nearest outside edges of each access lanes and the edge of the radius on the street.

Adjoining properties are encouraged to combine accesses. For public safety purposes and wherever possible, driveways shall align with the access points to properties across the street and other street intersections. Where impractical due to lot configuration, driveways shall be as approved by the City's Public Works Superintendent.

M. Access onto arterial streets.

1. The following uses will be permitted direct access to major arterial streets based on compliance with the spacing requirements:
  - a. Commercial uses;
  - b. Major public or private developments; and
  - c. High schools.
2. The following uses will not be permitted direct access to major arterial streets:
  - a. Residential development;
  - b. Elementary or middle schools; and
  - c. Parks.
3. The following uses will be permitted direct access to minor arterial streets based on compliance with the spacing requirements:
  - a. Commercial uses; and
  - b. Major public or private developments.
4. The following uses will not be permitted direct access to minor arterial streets:
  - a. Residential development.

N. Spacing Between Public Road Intersections. Spacing between public road intersections for each functional class of road shall conform to standards established in the street design section of the Transportation System Plan.

O. Parkway Strip Landscaping. Landscaping and plant materials used in the parkway strip is subject to the provisions of 2.207.

**2.202.04 General Right-of-Way and Improvement Widths**

The following standards in the Street Design Standards Table are general criteria for all types of public streets, bikeways, parkway strips, and sidewalks in the City of Hubbard. These standards shall be the minimum requirements for all streets, bikeways, and pedestrian facilities except where modifications are permitted under Section 2.202.05.

The Street Design Standards Table lists several options for local streets. The street design section of the TSP establishes guidelines for selection of the appropriate local street option. The TSP identifies the conceptual location of some new collector streets that shall be built as specified by Phase 2 design standards.

**STREET DESIGN STANDARDS TABLE**

Street Type <sup>1</sup>	ROW Width	Paved Width	Travel Lanes	Turning Lane	Parking	Parkway Strip	Sidewalk Width <sup>3</sup>	Bikeway Type and Standards	Utility Easement Width	Example Application
<b>ARTERIAL</b>										
Major	100 ft.	76 ft.	4 @ 12 ft.	1 @ 14 -16 ft.	None	2 @ 5 ft. <sup>2</sup>	2 @ 6 ft.	Bike lanes, 2 @ 6 ft.	2 @ 8 ft.	Hwy. 99E
Minor	60 ft.	48 ft. <sup>4</sup>	2 @ 11ft.	None	Both sides of street @ 7 ft., with interspersed tree planters.	None, except tree planters used (see TSP Appendix D)	2 @ 6 ft.	Bike lanes, 2 @ 6 ft.	2 @ 8 ft.	3 <sup>rd</sup> Street
<b>COLLECTOR<sup>5</sup></b>										
Phase 1	60 ft.	34 ft. <sup>4</sup>	2 @ 10 ft.	None	Both sides of street @ 7 ft.	2 @ 4.5 ft.	2 @ 5 ft.	Shared roadway	2 @ 8 ft.	7 <sup>th</sup> Street
Phase 2	60 ft.	34 ft. <sup>4</sup>	2 @ 11ft.	None	None	2 @ 4.5 ft.	2 @ 5 ft.	Bike lanes, 2 @ 6 ft.	2 @ 8 ft.	G St. between 2 <sup>nd</sup> & Hwy. 99E
<b>LOCAL</b>										
	50 ft.	28 ft.	1 @ 16 ft.	None <sup>6</sup>	Both sides of street @ 7 ft.	2 @ 5 ft.	2 @ 5 ft.	Shared roadway	2 @ 8 ft.	
Cul-de-sac	50 ft.	30 ft.	1 @ 14 ft.	None	Both sides of street @ 7 ft.	2 @ 5 ft.	2 @ 5 ft.	Shared roadway	2 @ 8 ft.	
Cul-de-sac bulb	46 ft. radius	40 ft.		None		5 ft.	2 @ 5 ft.	Shared roadway		

1. See Appendix D for drawings of street designs
2. The city will be responsible for landscape maintenance in the parkway strip
3. Includes 0.5 ft. curb
4. Greater widths may be required at intersections to accommodate turn lanes
5. Phase I changes to Phase II when traffic volume exceeds 3,000 ADT, or safety issues become a concern.

## **2.202.05 Modification of Right-of-Way and Improvement Width**

The Planning Commission, pursuant to the review procedures of Section 3.203, may allow modification to the public street standards of Section 2.202.04, when both of the following criteria are satisfied:

- A. The modification is necessary to provide design flexibility in instances where:
  - 1. unusual topographic conditions require a reduced width or grade separation of improved surfaces;
  - 2. parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of Section 2.202.04;
  - 3. a modification is necessary to preserve trees or other natural features determined by the Planning Commission to be significant to the aesthetic character of the area; or
  - 4. a Planned Unit Development is proposed and the modification of street standards is necessary to provide greater privacy or aesthetic quality to the development.
- B. Modification of the standards of Section 2.202.04 shall only be approved if the Planning Commission finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.

## **2.202.06 Construction Specifications**

Construction specifications for all public streets shall comply with the criteria of the most recently adopted public works/street standards and Transportation System Plan of the City of Hubbard.

## **2.202.07 Private Streets**

- A. Private streets shall only be allowed where the applicable criteria of Section 2.208.03 (C) are satisfied. Private streets shall comply with the following minimum standards:

No. of Potential Dwellings Served	Easement or Tract Width	Surface Width
1-3	25 feet	18 feet
4	25 feet	24 feet
More than 4	30 feet	28 feet

\*Note: If narrower streets are developed as part of Section 2.202.04 of the Code, more on site parking is required.



- B. The Planning Commission may require an increased surface width if deemed necessary to provide adequate access to commercial or industrial uses. Prior to any requested private street or drive adoption, the City requires the private drive or street to meet minor street standards as put forth in Section 2.202.04 of the Code.
- C. All private streets serving more than one ownership shall be constructed to the same cross-sectional specifications required for public streets. Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, home owners association or other instrument acceptable to the City Attorney.
- D. A turn-around shall be required for any private residential street in excess of 150 feet long, which has only one outlet and which serves more than three residences. Non-residential private streets serving more than one ownership shall provide a turn-around if in excess of 200 feet long and having only one outlet. Turn-arounds for private streets shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" turn-around with a minimum paved dimension across the "tee" of 70 feet.
- E. The Planning Commission may require provisions for the dedication and future extension of a public street.
- F. The City does not accept transfer of private streets to public streets unless the private street meets the City's construction standards at the time of acceptance and the construction inspected by the City Public Works Department and City Engineer during construction. Streets constructed to City standards, or those that provide evidence of compliance with City standards, (such as, but not limited to, providing core samples), inspected, and approved by the City and public emergency services agencies, may be eligible for transfer to public ownership if approved by the Planning Commission during a public hearing.

## **2.203 OFF-STREET PARKING AND LOADING**

### **2.203.01 Purpose**

The purpose of this Section is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City of Hubbard.

### **2.203.02 Scope**

Development of off-street parking and loading areas for commercial, industrial, institutional, or multi-family development shall be subject to the Site Development Review procedures of Section 3.105 and shall be reviewed pursuant to Section 3.203. These sections are applicable to single family and duplex development, where stated.

The provisions of this Section shall apply to the following types of development:

- A. any new building or structure erected after the effective date of this Ordinance;
- B. the construction or provision of additional floor area, seating capacity or other expansion of an existing building or structure; or
- C. a change in the use of a building or structure which would require additional parking spaces or off-street loading areas under the provisions of this Section; or
- D. the operation of an outdoor business or activities with outdoor uses.

### **2.203.03 Location**

Off-street parking and loading areas shall be provided on the same lot with the main building, structure or use except that:

- A. in any residential zone, automobile parking areas for dwellings and other uses permitted in a residential zone may be located on another lot if such lot is within 200 feet of the lot containing the main building, structure or use; and
- B. in any non-residential zone, the parking area may be located off the site of the main building, structure or use if it is within 500 feet of such site.

### **2.203.04 Joint Use**

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared subject to Planning Commission approval for commercial and industrial uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. The requirements of Section 2.203.05 may be reduced accordingly. Such joint use shall not be approved unless satisfactory legal evidence is presented which demonstrates the access and parking rights of parties.

## **2.203.05 Off-Street Automobile Parking Requirements**

Off-street parking shall be provided as required by Section 2.203.08 and approved by the Planning Commission in the amount not less than listed below.

Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in mobile home parks are required to install either a garage or carport.

A. 1, 2, and 3 family dwellings, including manufactured homes	2 spaces per dwelling unit
B. Multi-family dwellings	2 spaces per dwelling unit
C. Hotel, motel and boarding house	1 space per guest room plus 1 space for the owner or manager
D. Club, lodge	Spaces sufficient to meet the combined minimum requirements of the heaviest uses being conducted, such as hotel, restaurant, auditorium, etc.
E. Hospital, nursing home	1 space per two beds
F. Church, auditorium, stadium, theater	1 space per 4 seats or every 8 feet of bench length
G. Elementary or Junior High School	2 spaces per classroom, plus off-street loading facility
H. High School	1 space per six students the school is designed accommodate, plus off-street student loading facility
I. Bowling alley, skating rink, community center	1 space per 100 sq. ft. of gross floor area
J. Retail store, except as provided in "K"	1 space per 400 sq. ft. of gross floor area
K. Retail stores and outlets, selling furniture, automobiles, or other bulky merchandise where the operator can show the bulky merchandise occupies the major area of the building	1 space per 600 sq. ft. of gross floor area
L. Service or repair shop,	1 space per 200 sq. ft. of gross floor area
M. Bank, office buildings, medical and dental clinic	1 space per 200 sq. ft. of gross floor area
N. Eating and drinking establishment	1 space per 250 sq. ft. of gross floor area
O. Wholesale establishment	1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 700 sq. ft. of retail area
P. Municipal and governmental	1 space per 400 sq. ft.
Q. Industrial, manufacturing and	

processing:	
1. 0-24,900 sq. ft.	1 space per 700 sq. ft.
2. 25,000-49,999 sq. ft.	1 space per 800 sq. ft.
3. 50,000-79,999 sq. ft.	1 space per 1,000 sq. ft.
4. 80,000-199,999 sq. ft.	1 space per 2,000 sq. ft.
5. 200,000 sq. ft and over	1 space per 3,000 sq. ft.
R. Warehousing and storage distribution terminals (air, rail, truck, water, etc.):	
1. 0-49,999 sq. ft.	1 space per 2,000 sq. ft.
2. 50,000 sq. ft. and over	1 space per 5,000 sq. ft.

- S. Outdoor and other uses. Other uses not specially listed above shall furnish parking as required by the Planning Commission. The Commission shall use the above list as a guide for determining requirements for said other uses.

#### **2.203.06 Off-Street Loading Requirements**

Off-street loading space shall be provided as listed below:

- A. Commercial office buildings shall require a minimum loading space size of 12 feet wide, 20 feet long and 14 feet high in the following amounts:
1. Less than 30,000 square feet = 0 spaces
  2. More than 30,000 to 100,000 square feet = 1 space
  3. More than 100,000 square feet = 2 spaces
- B. All other commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long and 14 feet high in the following amount:
1. Less than 5,000 square feet = 0 spaces
  2. More than 5,000 to 30,000 square feet = 1 space
  3. More than 30,000 to 100,000 square feet = 2 spaces
  4. More than 100,000 square feet = 3 spaces

#### **2.203.07 Parking and Loading Area Development Requirements**

All parking and loading areas shall be developed and maintained as follows:

- A. Surfacing. All driveways, parking, maneuvering and loading areas shall have a durable, hard surface. In residential areas and for all residential uses, either a minimum of 2 1/2 inches of asphalt over a 6-inch aggregate base or 4 inches of Portland cement concrete shall be provided. In commercial, industrial, and institutional areas either a minimum of 3 inches of asphalt over a 6-inch aggregate base or 5 inches of Portland cement concrete shall be provided.

If approved by the Planning Commission, areas adjacent parking lots used exclusively for storage of materials, supplies, and/or products may surface the area with rock or gravel. Excluding asphalt, tar, and/or concrete, the area must conform to Public Works road standards in regards to content, consistency, and material size and type.

- B. Size of Parking Spaces and Driveways. The following standards shall apply to all parking areas and driveways:
1. One-way drives shall have minimum improved width of at least 12 feet, exclusive of parking spaces.
  2. Two-way drives shall have a minimum improved width of at least 20 feet, exclusive of parking spaces.
  3. The minimum width of any parking space shall be 8 1/2 feet, exclusive of driveways.
  4. The minimum length of any parking space shall be 20 feet, exclusive of driveways.
  5. All parking areas shall be designed and constructed in conformance with the most current Public Works Design Standards.
- C. Screening. When any public parking or loading area is within, or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall or hedge of at least 4 feet in height but not more than 6 feet in height. Screening height maximums along alleyways may be required less than 6 feet due to vision clearance and other safety issues. Determination shall be made by the City during final plat or plan review.
- D. Lighting. Any light used to illuminate a parking or loading area shall be arranged to be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto moving vehicles on public rights-of-way.
- E. Areas used for parking and maneuvering shall be maintained adequately for all-weather use and so drained as to avoid flow of water across sidewalks.
- F. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.
- G. Groups of more than four parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

- H. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
- I. Driveways shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 10 feet from their intersection in accordance to Section 2.209.07 of the Code.
- J. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail at least 4" high, located a minimum of 3 feet from the property line, to prevent a motor vehicle from extending over an adjacent property or a street.
- K. Clear Vision Areas. Clear vision areas shall be maintained on corner lots at the intersection of all public streets and at the intersections of a public street with a private street, alley, or driveway that serves more than three parcels. No structure, object, or planting shall be permitted within a clear vision area that would impede visibility between a height of 30 inches and 10 feet above the curb grade or the intersecting streets. Clear vision areas shall extend a set distance in accordance with Section 2.209.07 of the Code.

#### **2.203.08 General Provisions Off-Street Parking and Loading**

- A. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are observed.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the City Recorder based upon the requirements of comparable uses listed and expectations of parking and loading need.
- C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless a reduction is approved for shared parking pursuant to Section 2.203.04 above.

- D. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- E. Accessways through parking lots are usually physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices including landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

## 2.203.09 **Parking of Bicycles**

- A. Bicycle parking shall be provided as part of all new multi-family residential development of four or more residential units and new retail, office, and institutional development. Bicycle parking shall also be required for expansions and other remodeling that increases the required level of automobile parking.
- B. The required minimum number of parking spaces is specified in the following table.

<i>Land Use Category</i>	<i>Minimum Required Bicycle Parking Spaces</i>	<i>Minimum Covered Amount</i>
<b>Residential</b>		
Multi-family - general	1 space per unit	100%
Multi-family - seniors or with physical disabilities	4, or 1 space per 5 units, whichever is greater	100%
<b>Institutional</b>		
Schools - Elementary & Jr. Hi. or Middle	4 spaces per classroom	100%
School - Sr. Hi.	8 spaces per classroom	100%
Municipal & Government	2, or 1/2 space per 1000 ft <sup>2</sup>	25%
Churches, Auditoriums, & Stadiums	1 space per 40 seat capacity	25%
Hospitals, Nursing Homes	1 space per 5 beds	75%
Medical & Dental Clinics	2, or 1/2 space per 1000 ft <sup>2</sup>	25%
Libraries, Museums, etc.	2, or 1/2 space per 1000 ft <sup>2</sup>	25%
<b>Commercial</b>		
Retails Stores	0.33 space per 1000 ft <sup>2</sup>	50%
Auto-oriented Services	2 or 0.33 space per 1000 ft <sup>2</sup> , whichever is greater	10%
Groceries/Supermarkets	0.33 space per 1000 ft <sup>2</sup>	10%
Office	2 or 1/2 space per 1000 ft <sup>2</sup> , whichever is greater	10%
Restaurant (Including drive-in's)	1 space per 1000 ft <sup>2</sup>	25%
Shopping Center	0.33 space per 1000 ft <sup>2</sup>	50%
Banks & Financial	2 or 0.33 space per 1000 ft <sup>2</sup> ,	10%

<i>Land Use Category</i>	<i>Minimum Required Bicycle Parking Spaces</i>	<i>Minimum Covered Amount</i>
Institutions	whichever is greater	
Theaters	1 space per 30 seats	10%
	<b>Industrial</b>	
Industrial	2 or 1/2 space per 1000 ft <sup>2</sup> , whichever is greater	100%
Warehouse	2 or 0.1 space per 1000 ft <sup>2</sup> , whichever is greater	100%
Manufacturing	2 or 0.15 space per 1000 ft <sup>2</sup> , whichever is greater	100%

C. At a minimum bicycle parking facilities shall be consistent with the following design guidelines:

- 1) Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility.
- 2) Each bicycle parking space shall be at least 2 feet by 6 feet with a vertical clearance of 6 feet.
- 3) An access aisle of at least 5 feet shall be provided between each row of bicycle parking.
- 4) Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack," upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured, (Removing the front wheel may be necessary.) Note: Businesses may provide long-term, employee parking by allowing access to a secure room within a building, although, additional short-term customer parking may also be required.
- 5) The rack shall support the bicycle in stable position without damage.

#### **2.203.10 Recreational Vehicle Parking**

Recreational vehicle spaces shall meet the following use and development standards. The term "recreational vehicle space" means the portion of a lot where a single recreational vehicle is parked and occupied or intended to be parked and occupied.

- A. The space shall have an all-weather surface and be drained to prevent standing water.
- B. If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.
- C. Unless located in a recreational vehicle park no permanent electrical, water or sewer



- connections are permitted, nor shall the space be rented or leased for consideration.
- D. The space shall not be located in any required yard areas.

## **2.204 STORM DRAINAGE**

### **2.204.01 Purpose**

The purpose is to provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; and to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

### **2.204.02 Scope**

The provisions of this Section shall apply to all new residential land subdivisions, Planned Unit Developments, multi-family development, commercial development and industrial development; and to the reconstruction or expansion of such developments.

### **2.204.03 Plan for Storm Drainage and Erosion Control**

- A. No construction of any facilities in a development included in Section 2.204.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by an engineer registered in the State of Oregon and approved by the City. This plan shall contain at a minimum:
1. the methods to be used to minimize the amount of runoff, siltation and pollution created from the development both during and after construction;
  2. plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans; and
  3. calculations used by the engineer in sizing storm drainage facilities.

### **2.204.04 General Standards**

- A. All development shall be planned, designed, constructed and maintained to:
1. protect and preserve existing natural drainage channels to the maximum practicable extent;
  2. protect development from flood hazards;
  3. provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;

4. assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeded, phasing or grading;
  5. assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
  6. provide dry wells, french drains, or similar methods, as necessary to supplement storm drainage systems; and
  7. avoid placement of surface detention or retention facilities in road rights-of-way.
- B. Where culverts cannot provide sufficient capacity without significant environmental degradation, the City may require the watercourse to be bridged or spanned.
- C. In the event a development or any part thereof is traversed by any watercourse, channel, stream or creek, gulch or other natural drainage channel, adequate easements for storm drainage purposes shall be provided to the City. This does not imply maintenance by the City.
- D. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Ordinance. Fences with swing gates may be utilized.
- E. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be flushed and inspected by the City. All costs shall be borne by the developer.
- F. All storm drainage facilities shall be designed and constructed in conformance with the most current Public Works Design Standards.

## **2.205 UTILITY LINES AND FACILITIES**

### **2.205.01 Purpose**

The purpose is to provide adequate services and facilities appropriate to the scale and type of development.

### **2.205.02 Standards**

- A. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.
- B. Where applicable, utility lines and facilities shall be designed and constructed in conformance with the most current Public Works Design Standards.
- C. All development which has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the City. Installation of such facilities shall be coordinated with the extension of necessary sewer services, storm drainage facilities, and street construction.
- D. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.
- E. All development which has a need for public/private sanitary sewers shall install the facilities and grant necessary easements pursuant to the requirements of the City. Installation of such facilities shall be coordinated with the extension of necessary water services, and storm drainage facilities, and street construction.
- F. All land divisions or other development requiring sub-surface disposal systems shall be prohibited.
- G. Street lights shall be required for all developments inside the City. Installation of street lights shall be pursuant to the requirements of the City and the company serving the development.
- H. Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions, and on the final plat of all major partitions.

## **2.206 SIGNS**

### **2.206.01 Purpose**

The provisions of this Section are intended to provide for the necessary means of identification while maintaining a safe and pleasing environment for the people of the City of Hubbard.

### **2.206.02 General Provisions**

- A. Conflicting Standards. Signs shall be allowed subject to the provisions of this Section, except when these provisions conflict with the specific standards for signs in the subject district.
- B. Signs Subject to State Approval. All off-premise advertising signs located along state highways are subject to the regulations and permit requirements of the Highway Division of the State of Oregon Department of Transportation. Where the regulations of the State and City differ, the more restrictive regulations shall govern.
- C. Uniform Sign Code. All signs shall comply with the provisions of the Uniform Sign Code of the Uniform Building Code, except as otherwise provided in this section.
- D. Address Display. The property identification program for residential, multifamily, commercial, institutional, or industrial development shall include the display of address numbers on a wall near the front entrance and facing the street of address. Residential numbering shall be a minimum of four (4) inches in height and minimum of six (6) inches is required for all other uses.
- E. Sign Clearances. A minimum of eight (8) feet above sidewalks and fifteen (15) feet above driveways shall be provided under free-standing signs.
- F. Setbacks. All signs shall be situated in a manner so as not to adversely affect safety, corner vision or other similar conditions. Unless otherwise specified, all signs shall observe the yard setback requirements of the districts in which they are located.
- G. Blanketing. No sign shall be situated in a manner which results in the blanketing of an existing sign.
- H. Illuminated Signs:
  - 1. Internally illuminated signs, or lights used to indirectly illuminate signs shall be placed, shielded or deflected so as not to shine into residential dwelling units or structures, or impair the vision of the driver of any vehicle.

2. The light intensity of an illuminated sign shall not exceed the accepted standards of the sign industry, as provided by the Oregon Electric Sign Association.
  3. No sign or other illuminating device shall have blinking, flashing or fluttering lights, with the exception of a time and temperature sign approved by the Planning Commission when the properties abut Highway 99E.
  4. No colored lights shall be used at any location or in any manner which may be confused with or construed to be traffic signals or lights on emergency vehicles.
- I. Moving Signs. No sign, sign structure, or portion thereof, shall be designed to rotate, flutter or appear to move.
  - J. Maintenance. All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and be maintained in a safe condition. All signs and the site upon which they are located shall be maintained in a neat, clean and attractive condition. Signs shall be kept free from rust, corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept neatly painted or posted.
  - K. Pre-Existing Signs. Signs and sign structures existing prior to the adoption of this Ordinance which complied with applicable regulations existing when the sign was established, but which do not comply with one or more of the requirements of this subsection, shall be subject to the provisions of Section 3.109 for Nonconforming Uses, except:
    1. Alterations to a non-conforming sign which reduces, or does not increase its non-compliance with the provisions of this Ordinance, including changes in display surface, sign area, height and setback, may be allowed.
    2. Businesses no longer operating at a site shall replace or remove signage within one (1) month of abandoning or relocating the business. Failure to use a non-conforming sign for purposes permitted under this section for a period of more than twelve (12) consecutive months shall constitute a discontinuation of use as provided under Section 3.109 and such sign shall be removed or modified to satisfy all applicable requirements of Section 2.206 and the underlying district.

### **2.206.03 Prohibited signs.**

For properties abutting Highway 99E, no sign, sign structure, or portion thereof shall be a sandwich board or an A-frame in style or design, except for special events as approved by the City Council. The signs are allowed for a total of ten days within one calendar year.

## **2.206.04 Residential**

### **A. Residential Name Plates:**

1. shall not exceed two (2) square feet;
2. shall be limited only to the title, name and address of the occupant of the premises upon which the sign is located;
3. shall be limited to one (1) such sign upon the premises; and
4. may be illuminated by indirect lighting only.

### **B. Signs pertaining to home occupations, as provided under Section 2.303 of this Ordinance:**

1. shall not exceed two (2) square feet;
2. shall be located inside the dwelling or located flat against the dwelling within which the home occupation is conducted;
3. shall be limited to one (1) such sign upon the premises; and
4. may be illuminated by indirect lighting only.

### **C. Signs identifying multifamily developments or subdivisions:**

1. Free-standing and ground-mounted signs shall not exceed twenty-four (24) square feet, as viewed from a single direction, and shall not exceed a height of five (5) feet above the natural ground elevation.
2. On-building signs shall be reviewed as part of the architecture of the building.
3. No more than one free-standing or ground-mounted identification sign shall be allowed for a development or complex, even when more than one tax lot or ownership is included in the development; however, in mixed use developments a separate free-standing sign may be allowed to identify the multifamily portion of the development.
4. At least one complex sign shall be approved by appropriate emergency services and public safety agencies.
5. Directional signs within the development shall not exceed three (3) square feet, except as provided in the district.

6. Artificially illuminated signs may be allowed subject to Subsection 2.206.02 (H).

D. Signs for public and semi-public facilities, schools, churches, hospitals and similar uses:

1. shall not exceed eighteen (18) square feet;
2. shall pertain only to the use on the premises;
3. may be illuminated by indirect lighting only; and
4. shall be limited to one (1) such sign upon the premises.

#### **2.206.05 Allocation Provisions and Sign Standards for Commercial and Industrial Developments**

- A. The following provisions and design standards specify how a property's total sign allocation may be utilized. Unless specified elsewhere in these regulations, total sign allocation shall be determined by multiplying the length of the property's primary frontage (feet) by the primary frontage multiple. The maximum sign area refers to the size of any one sign.

Sign Type	Primary Frontage Multiple	Maximum Sign Area	Maximum Sign Height
Attached	1½ sq. feet	100 sq. feet	20 feet
Free-standing	1½ sq. feet	100 sq. feet	20 feet
Temporary	1½ sq. feet	5 sq. feet	6 feet

- B. Sign allocation for a given frontage may be apportioned to attached signs and free-standing and temporary signs. That portion of the sign allocation utilized by a business or tenant for attached signage on a given frontage shall be utilized in not more than two (2) signs. If the property frontage allocation for attached signs exceeds the maximum sign area size of the district, additional allocation may be utilized in one additional sign, provided that an 8-ft separation is maintained between signs.
- C. Sign area allocation calculated for a primary frontage may be utilized for an attached sign(s) that faces a secondary frontage, limited to one sign per each frontage. The amount of allocation used for secondary frontage signs shall be subtracted from and shall not exceed the total sign allocation for the property.



D. Free-standing or ground-mounted signs oriented to off-site circulation identifying the uses on the premises shall be allowed subject to the following conditions:

1. Maximum height: Twenty (20) feet
2. Maximum sign area: 100 square feet as viewed from one direction.
3. Minimum separation between free-standing signs shall be 50 feet.
4. Setbacks: For all developments where one freestanding sign is used, signs less than twenty-eight (28) square feet in size must observe at least one-half of the yard setback requirements of the district in which it is located. Signs larger than twenty-eight (28) square feet in size must observe the setback requirements of the district in which it is located. For all developments where more than one (1) freestanding sign is used, all freestanding signs shall observe a minimum setback of 25 feet from all side lot lines.
5. Sign structure: When visible, the supporting structure of the sign shall be incorporated into the overall sign design, and shall be proportional with the sign. The sign support structure, and any street numbers included on the sign structure, shall not be counted for purposes of determining sign area unless the numbers and structure are more than double the square footage of the sign face.
6. Illumination: Such signs may be internally or indirectly illuminated, subject to Subsection 2.206.02(H).
7. Clear Vision Areas: Freestanding signs located near service drives for commercial parking areas shall comply with the vision clearance requirements of Section 2.203.07(I).

E. Attached signs shall be allowed, subject to the following conditions:

1. Two (2) such signs shall be allowed for each business under separate ownership. If property frontage allocation for attached signs exceeds the maximum sign area size of the district, additional allocation may be utilized in (an) additional sign(s), provided that an 8-ft separation is maintained between signs.

For properties with more than one frontage, the sign area allocation calculated for a primary frontage may be utilized for an attached sign(s) that faces a secondary frontage, limited to one sign per each frontage. The amount of allocation used for secondary frontage signs shall be subtracted from and shall not exceed the total sign allocation for the property.

2. Design: On-building signs shall be incorporated into the design of the building, and shall not be placed in locations which interrupt, detract from or change the architectural character of the building.

- F. Changeable copy signs may be incorporated into a permanent identification sign for a business or development, subject to review and approval of the Planning Commission. Approval shall not be granted unless the following conditions are satisfied:
1. Only one such sign shall be used in a development.
  2. The changeable copy sign shall be included in the maximum sign area allowed under Subsections 2.206.05(A)(3) or 2.206.05(B)(1).
  3. The sign shall be integrated into the design of the identification sign, and shall satisfy the design standards under Section 2.206.03.
  4. A changeable copy sign shall not be used on a sign which includes a time and/or temperature display.

#### **2.206.06 On-Site Traffic Control and Identification Signs**

- A. On-site traffic control and identification signs shall be those permanent signs which are oriented toward internal circulation roads, driveway and walkways, or which direct the flow of traffic to and from the site from adjacent roads or walkways.
- B. Traffic Control. Signs which direct the flow of traffic to and from and within the site area shall observe the clear-vision requirements of the district, and shall be a maximum of three (3) square feet.
- C. Directories. An on-site sign oriented primarily toward vehicle circulation which identifies and directs traffic to a number of tenants, uses or buildings within the development, shall be limited in area to a maximum of two (2) square feet per tenant, use or building specifically identified, up to a maximum of forty (40) square feet. Directories oriented toward pedestrian circulation areas, including those attached to buildings, shall be a maximum of twenty-four (24) square feet in area, and eight (8) feet in height.
- D. Identification signs. An on-site, ground-mounted tenant identification sign for an individual building within a development may be allowed as an alternative to an on-building identification sign provided such sign shall:
1. be located on the most visible side of the building being identified;
  2. not exceed twelve (12) square feet in area;
  3. not exceed four (4) feet in height; and
  4. use materials and colors which are the same, or substantially the same, as those used on the building identified by the sign.

## **2.206.07 Temporary Display and Portable Signs**

- A. Temporary Displays. A combination of banners, streamers, strings of lights, flags, beacon lights and other similar apparatus may be displayed under the following conditions and limitations:
1. Hazards: No sign, light, electrical cord, streamer, banner or other apparatus shall be situated or used in a manner which creates a hazard.
- B. Portable Identification Signs. A portable sign may be used to temporarily identify a new business until permanent identification signs are installed, or to identify an existing business while permanent identification signs are being repaired or replaced, under the following conditions and limitations:
1. Need: No portable sign shall be allowed under this provision when any other permanent or portable sign visible from adjacent roads accurately identifies the premises.
  2. Number: Only one (1) portable identification sign shall be displayed for a development of complex.
  3. Time period: The use of a portable identification sign shall be valid for ninety (90) consecutive days, or until a permanent identification sign is installed, whichever occurs first.
  4. Design review: The application for permanent identification signing for the business shall be submitted for review prior to, or concurrent with, the establishment of a temporary display or portable sign under this Section.
  5. Size limits: Portable signs shall not exceed a sign area of thirty-two (32) square feet, or a height of six (6) feet above the natural ground elevation.
  6. Setbacks: Portable signs shall observe clear-vision area requirements of the district. In no case shall a portable sign be placed within the road right-of-way.
  7. Anchoring: All signs approved under this provision shall be physically established in a manner which both prevents the sign from being moved or blown from its approved location, and allows for removal of the sign.
  8. Exceptions: No portable sign shall be allowed under this provision for any business or development which has a changeable copy sign incorporated into their permanent identification sign.
  9. Illuminated Signs: Illumination of any sign, or portion thereof, in the shape of an arrow, or any other shape which may be construed as a traffic control

device is prohibited. Signs containing any electrical components or parts, or illuminated by electrical lighting, must be approved under the National Electrical Code as modified by the State of Oregon Rules and Regulations. Lights and illuminated signs requiring an outside power source shall use a state approved power outlet.

10. Hazards: No sign, light, electrical cord, streamer, banner or other apparatus shall be situated or used in a manner which creates a hazard.

- C. Portable Signs. Except as provided in Section 2.206.03, portable signs advertising goods and services available on-site shall not exceed an area of twelve (12) square feet, or a height of five (5) feet. Such signs shall be subject to clear-vision area requirements, and one-half (1/2) the setback requirements of the district, and conditions 7 and 8 under Subsection 2.206.07(B).
- D. Incidental Signs. Emblems, decals and other similar signs indicating membership in organizations, acceptance of credit cards, brand names of items sold, promoting the Oregon Lottery, and other such information which pertains to the business or proprietor of the business located on the premises may be displayed on the inside of any window or door.
- E. Temporary Window Signs. Posters and other signs of a temporary nature which advertise or inform the public of current prices or events may be displayed on the inside of a window or door of a business located in a commercial or industrial district.
- F. Temporary signs advertising the sale, rental or lease of commercial or industrial premises, or identifying a property developer, lease agent or builder, or advertising a legally recorded subdivision in its entirety, or residential property in excess of one (1) acre, may be allowed, subject to the following limitations:
  - 1. shall not exceed sixty (60) square feet in area;
  - 2. shall pertain only to property upon which they are located;
  - 3. shall observe the setback provisions under Subsection 2.206.05(A)(4);
  - 4. shall be limited to one (1) such sign on the premises;.
  - 5. shall not be artificially illuminated; and
  - 6. such signs shall be removed from the premises after the premises are sold, rented or leased. Signs pertaining to recorded subdivisions shall not remain upon the premises in excess of eighteen (18) months from the date of filing of the subdivision.
- G. Real Estate Signs Advertising Individual Lots:

1. shall not exceed six (6) square feet;
2. shall pertain only to the property upon which they are located;
3. shall be located at least five (5) feet behind the front lot line;
4. shall not exceed five (5) feet in height;
5. shall be temporary in nature and shall be removed within two (2) weeks after the date of sale; and
6. shall not be artificially illuminated.

## **2.206.08 Off-Premise Signs**

- A. Along State Highways. All off-premise advertising signs which are located along state highways are subject to approval by the Oregon State Highway Division pursuant to the Motorists Information Act.
- B. Billboards. New billboards shall not be allowed in any zoning district.
- C. Political Signs. Signs which support or oppose ballot measures, persons running for political office, and other issues subject to a vote by the public may be allowed subject to the following conditions:
  1. Approval must be obtained by the owner of the property on which the sign is to be posted.
  2. Setbacks: Such signs may be located within the required setback area of the district, provided they are situated in a manner so as not to adversely affect safety, corner vision or other similar conditions.
  3. Right-of-Way Excluded: Signs shall not be posted in rights-of-way, on telephone poles, traffic signs or other public apparatus.
  4. Size: Signs shall not exceed sixteen (16) square feet in size, as viewed from one direction.
  5. Time Limit: All such signs shall be removed within one (1) week after the election for which the sign is posted.
- D. Along Public Roads. Off-premise directional signs of a temporary nature such as those used to direct persons to open houses, garage sales, or special one-day events may be allowed, subject to the following conditions:
  1. Any such sign which is visible from a state highway shall be subject to approval pursuant to Subsection 2.206.08(A), above.

2. All such signs shall comply with conditions 1 through 4 under Subsection 2.206.08(C), above.
  3. Time Limit: All such signs shall be removed at the end of the day on which the event, open house or garage sale is conducted.
- E. Permanent off-premise signs. Permanent off-premise signs used to direct persons to a particular business or location may be established only when authorized, installed, and maintained by the City of Hubbard or by such groups or organizations authorized to install such signs by the City Council.

## **2.207 SITE AND LANDSCAPING DESIGN**

### **2.207.01 Purpose**

- A. The purpose is to guide the planting and maintenance of landscaping materials;
- B. to enhance the appearance of the City, providing areas for outdoor recreation and to:
  - 1. provide shade and windbreaks where appropriate to conserve energy in building and site design;
  - 2. buffer and screen conflicting land uses;
  - 3. provide for the landscaping of parking areas to facilitate vehicular movement and break up large areas of impervious surface; and
  - 4. promote public safety through appropriate design principles; and
  - 5. encourage provision of screening and buffering to mitigate for visual and sound impacts related to the railroad.
- C. to prevent or reduce erosion potential within developments by providing appropriate landscape materials.

### **2.207.02 Scope**

All construction, expansion or redevelopment of structures or parking lots for commercial, multi-family, or industrial uses shall be subject to the landscaping requirements of this Section. Landscaping plans shall be submitted as required by the Site Development Review procedures of Section 3.105 and reviewed by the Planning Commission, subject to Type II review procedures set forth in Section 3.200.

### **2.207.03 Minimum Area Requirements**

Landscaped areas may include landscaping: around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Ordinance. The following area requirements shall be the minimum areas devoted to landscaping:

For expansion of existing developments and parking lots, the minimum new landscaped area shall be determined by: first calculating the percentage of the increase of total floor area or parking area; multiplying the gross site area by this percentage of increase; multiplying the resulting area by the minimum percentage for the type of development, as listed below:

- A. Multi-Family Developments: A minimum of 25 percent of the gross land area shall be devoted to landscaping in multi-family developments. Interior courtyards, atriums, solar greenhouses and roof gardens may be included with general landscaped areas in the calculation of this percentage.
- B. Commercial Developments: A minimum of 10 percent of the gross land area shall be devoted to landscaping in commercial developments.
- C. Industrial Developments: A minimum of 10 percent of the gross land area shall be devoted to landscaping in industrial developments.
- D. Developments within Public Zones: A minimum of 10 percent of the gross land area shall be devoted to landscaping in public zones.

#### **2.207.04 General Provisions**

- A. For purposes of satisfying the minimum requirements of this Ordinance, a "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements as defined in this Ordinance. Landscaping in paved areas may include plants in planter boxes or other appropriate containers, provided that all other conditions of this Ordinance are met.
- B. Landscaping shall be designed, developed and maintained to satisfy the specific functional and aesthetic objectives appropriate to the development and the district, considering the following:
  - 1. type, variety, scale and number of plants used;
  - 2. placement and spacing of plants;
  - 3. size and location of landscaped areas;
  - 4. contouring, shaping and preparation of landscaped areas; and
  - 5. use and placement of non-plant elements within the landscaping.
- C. The Planning Commission may grant the applicant credit for landscaping to be done in the public right-of-way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right-of-way for street purposes when granting approval for credit under this Section.
- D. The landscape design shall incorporate existing significant trees and vegetation preserved on the site.



## **2.207.05 Screening and Buffering**

- A. Screening shall be used to eliminate or reduce the visual impacts of the following:
  - 1. service areas and facilities, including garbage and waste disposal containers, recycling bins and loading areas;
  - 2. outdoor storage and outdoor display areas;
  - 3. parking areas for 20 or more vehicles for multi-family developments, or 30 or more vehicles for commercial or industrial uses;
  - 4. at and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners; and
  - 5. any other area or use as required by this Ordinance.
- B. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques.
- C. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:
  - 1. Planting Area: Width not less than fifteen (15) feet, planted with the following materials:
    - a. at least one row of deciduous or evergreen trees staggered and spaced not more than fifteen (15) feet apart;
    - b. at least one row of evergreen shrubs which will grow to form a continuous hedge at least five (5) feet in height within one (1) year of planting; and
    - c. lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.
  - 2. Berm Plus Planting Area: Width not less than ten (10) feet, developed in accordance with the following standards:
    - a. Berm form should not slope more than forty (40) percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary.
    - b. A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.

3. Wall Plus Planting Area: Width must not be less than five (5) feet developed in accordance with the following standards:
    - a. a masonry wall or fence not less than five (5) feet in height; and
    - b. lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.
  4. Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated, may be used, as approved by the Planning Commission.
- D. Screening and buffering is encouraged along the railroad right-of-way to mitigate for rail-related sound and visual impacts.

#### **2.207.06 Planting and Maintenance**

- A. No sight-obscuring plantings exceeding thirty (30) inches in height shall be located within any required clear-vision area as defined in Section 1.200 of this Ordinance.
- B. Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of eight (8) feet and to a minimum height of fifteen (15) feet over streets and vehicular traffic areas.
- C. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground.
- D. Landscape plant material shall be installed to current nursery industry standards.
- E. Landscape plant materials shall be properly guyed and staked to current industry standards as necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.
- F. All landscape material shall be guaranteed by the developer for a period of one year from the date of installation. A copy of the guarantee shall be furnished to the City by the developer.
- G. Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas which will not be irrigated should be sufficiently hardy to thrive under these conditions. Plants should have vigorous root systems, and be sound, healthy, free from defects, diseases and infections. Landscaping plans shall be submitted to the City by a licensed landscaping professional.

- H. Deciduous trees should be fully branched, have a minimum caliper of one and one-quarter (1 1/4) inches, and a minimum height of eight (8) feet at the time of planting.
- I. Evergreen trees shall be a minimum of six (6) feet in height, fully branched.
- J. Shrubs should be supplied in one (1) gallon containers or eight (8) inch burlap balls with a minimum spread of twelve (12) to fifteen (15) inches.
- K. Ground cover plants shall be spaced in accordance with current nursery industry standards to achieve covering of the planting area. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum four (4) inch size container or a two and one-quarter (2 1/4) inch container or equivalent if planted eighteen (18) inches on center.
- L. Irrigation requirements.
  - 1. All developments are required to provide appropriate methods of irrigation for the landscaping. Large landscape areas, exceeding 400 square feet, shall be irrigated with automatic sprinkler systems to insure the continued health and attractiveness of the plant materials.
  - 2. Sprinkler heads shall not cause any hazard to the public. Hose bibs and manually operated methods of irrigation may be appropriate for cumulative landscaping areas totaling under 400 square feet.
  - 3. Xeriscaping may be used as a landscaping option. All Xeriscaping plans shall be submitted to the City by a licensed landscape professional.
  - 4. Irrigation shall not be required in existing wooded areas, wetlands, floodplains or along natural drainage channels or stream banks.
- M. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.
- N. Landscape plant material shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers or other suitable methods.

## 2.207.07 Recommended Street Trees

A. The following tree species are recommended for use as street and parking lot trees:

1. Trees maturing to small mature stature (generally 30 feet or less in height):

Common Name	Latin Name	Mature Height
Amur Maple	<i>Acer ginnala</i>	20 feet
Trident Maple	<i>Acer buegeranum</i>	20-25 feet
Hedge Maple	<i>Acer compestre</i>	30 feet
Globe Norway	<i>Acer platanoides</i>	15-20 feet
Bradford Pear	<i>Pyrus calleryana</i>	15-25 feet
(varieties: “aristocrat”, “chanticleer”, etc.)		
Golden Rain Tree	<i>Koelreuteria paniculata</i>	20-35 feet
Redbud (needs protection from Southwest sun)	<i>Cercis canadensis</i>	25-35 feet
Kwanzan Cherry	<i>Prunus serrulata</i>	30 feet
Crape Myrtle	<i>Lagerstroemia indica</i>	6-30 feet
Flowering Plum	<i>Prunus cerasifera</i>	30 feet
(Flireiana, Thundercloud, etc.)		
Raywood Ash	<i>Fraxinus oxycarpa</i>	25-35 feet
Flame Ash	<i>Fraxinus oxycarpa</i>	30 feet
Snowdrift Flowering Crabapple	<i>Malus ‘snowdrift’</i>	20-25 feet
Japanese Crabapple	<i>Malus floribunada</i>	20 feet
Washington Hawthorne	<i>Crataegus phaenopyrum</i>	25 feet
Profusion Crabapple	<i>Malus ‘profusion’</i>	15-20 feet

2. Trees maturing to medium (generally 30 to 50 feet) or tall (generally taller than 50 feet) stature

<b>Common Name</b>	<b>Latin Name</b>	<b>Mature Height</b>
European Hornbeam	<i>Carpinus betulus</i>	40 feet
Sargent Cherry	<i>Prunus sargentii</i>	40-50 feet
Sweet Gum	<i>Liquidambar styraciflua</i>	60 feet
Marshall's Seedless Ash	<i>Fraxinus pennsylvanica</i>	30-40 feet
Kimberly Blue Ash	<i>Fraxinus excelsior</i>	60-80 feet
Rosehill Ash	<i>Fraxinus Americana</i>	80+ feet
Flowering Ash	<i>Fraxinus ornus</i>	40-50 feet
Norway Maple Cultivars	<i>Acer platinoides</i>	50-60 feet
Red Maple Cultivars	<i>Acer rubrum</i>	40+ feet
Scarlet Oak	<i>Quercus coccinea</i>	60-80 feet
Red Oak	<i>Quercus rubra</i>	up to 90 feet
Canyon Live Oak (evergreen)	<i>Quercus chrysolepis</i>	20-60 feet
Holly Oak (evergreen)	<i>Quercus ilex</i>	40-70 feet
English Oak	<i>Quercus robur</i>	up to 90 feet
Chinese Pistachio	<i>Pistacia chinensis</i>	60 feet
Variegated Boxelder	<i>Acer negundo</i>	60 feet
Ginkgo	<i>Ginkgo biloba</i>	35-50 feet
Grecian Laurel	<i>Laurus nobilis</i>	12-40 feet
Japanese Zelkova	<i>Zelkova serrata</i>	60+ feet
Amur Cork Tree	<i>Phellodendron amurense</i>	30-45 feet
Thornless Honey Locust	<i>Gleditsia triacanthos inermis</i>	35-70 feet

## **2.207.08 Prohibited Street Trees**

The following trees are not allowed within public rights-of-way except under special circumstances and with the approval of the Staff Advisor. As street trees they cause one of more of the following problems: 1) Their roots damage sewer lines or pavement; 2) They are particularly subject to disease or insects; 3) They cause visibility problems along streets or intersections; 4) They create messy sidewalks and pavements, usually due to fruit drop.

<b>Common Name</b>	<b>Latin Name</b>
Evergreen Conifers	numerous species
Poplar & related species	<i>Populus tricarpa</i>
Black Locust	<i>Robinia psuedoacacia</i>
Box Elder (except variegated)	<i>Acer negundo</i>
Sycamore	<i>Platanus</i> species
Siberian Elm	<i>Ulmus pumila</i>
American Elm	<i>Ulmus americana</i>
Walnut	<i>Juglans</i> species
Weeping Willow	<i>Saxix babylonica</i>
Commercial Fruit Trees	numerous species
Catalpa	<i>Catalpa speciosa</i>

Tree of Heaven	<i>Ailanthus altissima</i>
Big Leaf Maple	<i>Acer macrophyllum</i>
Fruiting Mulberry	<i>Morus alba</i>
Osage Orange	<i>Maclura pomifera</i>
Weeping varieties of various trees: i.e. cherry, mulberry, crabapple	

## **2.208 DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

### **2.208.01 Purpose**

The purpose of this Section is to provide for the orderly, safe, efficient and livable development of land within the City of Hubbard.

### **2.208.02 Scope**

The provisions of this Section shall apply to all subdivisions, and partitions within the City of Hubbard.

### **2.208.03 Standards for Lots or Parcels**

A. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.

B. Lot width and depth. The depth of a lot or parcel shall not be more than 2 1/2 times the width of the parcel, with the following exceptions:

1. Individual lots for townhouse units shall not be less than 20 feet in width. Lot depth may vary, but shall be adequate to provide a minimum of 300 square feet of semi-private outdoor living space for each unit.
2. Parcels created for public utility uses shall be exempt from width to depth ratio provisions.

C. Access. All lots or parcels created after the effective date of this Ordinance shall provide a minimum of 25 feet of frontage on an existing or proposed public street, with the following exceptions:

1. Residential lots or parcels, excluding townhouse developments and Planned Unit Developments, may be accessed via a private street developed in accordance with the provisions of Section 2.202 when the Planning Commission finds that public street access is:
  - a. unfeasible due to parcel shape, terrain, or location of existing structures; and
  - b. unnecessary to provide for the future development of adjoining property.
2. Lots or parcels in townhouse developments or Planned Unit Developments may be accessed via public or private streets, in accordance with the following standards:

- a. Internal local streets or drives may be private and shall be subject to the provisions of Section 2.202.
  - b. Collector and arterial streets shall be public and shall comply with the applicable provisions of Section 2.202.
  - c. Local streets which are needed to provide access to adjoining properties shall be public and shall comply with the applicable provisions of Section 2.202.
3. Commercial or industrial uses located in a campus or park-like development may be accessed via private streets when developed in accordance with Section 2.202.07.
  4. Abutting flag lots with a shared access drive, where each flag lot has a minimum of 12 ½ feet of frontage on a public street.
- D. Access for duplexes or townhouses on corner lots: Individual driveways for duplexes or townhouses on corner lots shall be installed at a rate of one driveway per unit per street frontage unless the Planning Commission allows a combined access on one street frontage based upon a conflict created by the topography of the lot, the location of a public utility, significant vegetation, or different street classification.
- E. Flag Lots. Where authorized by the Planning Commission pursuant to the access requirements of Section 2.202.07, flag lots shall be subject to the following development standards:
1. The property line running parallel to the access road shall be considered the front yard line and shall be used to calculate front yard setback requirements.
  2. The access strip shall be a minimum of 25 feet in width. The improved surface shall be a minimum of 12 feet in width.
  3. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Ordinance.
  4. If the length of the access strip exceeds 200 feet, the access strip shall be developed as a private street and shall conform to the standards of Section 2.202.07.
  5. Where two flag lots abut, access shall be via a shared drive wherever possible. Shared drives shall be developed as private streets and shall conform to the standards of Section 2.202.07.



- F. Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. Screening or buffering, pursuant to the provision of Section 2.207, may be required by the Planning Commission during the review of the land division request.
- G. Lot Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- H. Lot Grading. Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.
  - 1. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
  - 2. Fill slopes shall not exceed two feet horizontally to one foot vertically.
  - 3. The character of soil for fill shall be suitable for the purpose intended.
  - 4. The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns and other pertinent data, shall be established by the City Building Inspector.
  - 5. Utilities shall conform to current standards set forth in Section 2.205 of the Code.
- I. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width of 12 feet (6 feet on each lot if located on a common lot line).

#### **2.208.04 Standards for Blocks**

- A. General. The length, width and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control and safety of street traffic including pedestrians and bicyclists; and recognition of limitations and opportunities of topography.
- B. Sizes. Blocks shall not exceed 1,600 feet in perimeter between street lines, except blocks adjacent to major arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on major arterial streets is 1,320 feet or more. Blocks that exceed 600 feet in length shall be required to provide additional pedestrian and bikeway accesses.

## **2.208.05 Improvement Requirements**

- A. Partitions. During the review of partition proposals, the City may require as a condition of approval, the improvement of:
1. Public streets upon which the property fronts to public standards per Section 2.201.03 of the Code. Improvements may include: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities;
  2. Sidewalks, five feet in width, and bikeways along public street frontage per Section 2.201.03 of the Code; and
  3. Private driveways serving flag lots, per the requirements of Section 2.202.07. All improvements required as a condition of approval of a partition shall be completed prior to the issuance of any building permits for the subject property.
- B. All improvements required under this Section shall be completed or assured through a performance bond or other instrument acceptable to the City Attorney prior to the approval of the final plat of the partition.
- C. Subdivisions. The following improvements shall be required for all subdivisions in the City of Hubbard:
1. Frontage Improvements: Full street improvements to full City standards shall be required for all public streets on which a proposed subdivision fronts. Such improvements shall be blended to match with existing improved surfaces across the center line and for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, bikeways, curbing, parkway strips, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.
  2. Project Streets: All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.202.
  3. Monuments: Upon completion of street improvements, monuments shall be re-established and monument pins shall be placed at every street intersection and all points of curvature and points of tangency of street center lines. Elevation bench marks shall be established at each street intersection monument with elevations to US Geological Survey datum.

4. **Surface Drainage and Storm Sewer System:** Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.
5. **Sanitary Sewers:** Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided. If the required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is equitable to assure financing his share of the construction.

The City may require that the subdivider construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the subdivider as is desirable to assure his share of the construction.

6. **Water System:** Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the City will not expect the subdivider to pay for the extra cost of mains exceeding eight (8) inches in size.
7. **Sidewalks:** Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision.
8. **Other:**
  - a. Curb cuts and driveway installations are required of the subdivider, and shall be according to the City standards.
  - b. Street tree planting is required of the subdivider, and shall be according to City requirements and of a species compatible with the width of the planting strip.
9. **Street Lights:** The installation of street lights is required at locations determined to be appropriate by the City, and of a type required by City standards.

10. Street Signs: The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City, and shall be of a type required by City standards.

All improvements required under this Section shall be completed to City standards, or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.

#### **2.208.06 Improvement Procedures**

In addition to other improvements installed by a developer for any land division, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Ordinance and improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedures:

- A. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.
- B. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City Recorder or the Superintendent of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
- D. All underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
- E. A map showing all public improvements as built shall be filed with the Superintendent of Public Works upon completion of the improvements.

## **2.209 YARD AND LOT STANDARDS**

### **2.209.01 New Buildings Shall be on a Lot**

Every building erected shall be located on a lot as herein defined.

### **2.209.02 Yards Apply Only to One Building**

No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or open space for any other building, nor shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.

### **2.209.03 Zero Side Yard Setback**

Zero side yard dwelling units shall meet the following use and development standards:

- A. Number of Attached Units. No more than two dwelling units, each on a lot held in separate ownership, may be attached in the R-1 zone; and no more than six dwelling units on two or more lots held in separate ownership may be attached in the R-2 zone.
- B. Yards Adjacent to a Street. The requirements of this Ordinance for yards adjacent to a street are not relieved by this Section.
- C. Maintenance Easement. As a condition of issuance of a permit for any building having an exterior wall contiguous to a property, the applicant shall furnish an easement from the owner of the property adjacent to said wall providing for ingress, egress and use of such adjacent property for the purpose of maintaining, repairing and replacing the building. Said easement shall be appurtenant to the property on which the building is located and shall be approved as to form by the City Attorney and shall be recorded with the County Clerk prior to issuance of the permit.

### **2.209.04 Front Yard Projections**

Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels and other ornamental features of not more than 24 inches from main buildings, uncovered porches, covered but unenclosed porches when not more than one story high and which do not extend more than ten (10) feet beyond the front walls of the building, but in no case shall such projection come closer than ten (10) feet from the property line and the floors of which are not more than four (4) feet above grade, are exempt from the front yard setback provisions and need not be included when determining the average setback.

#### **2.209.05 Side Yard Projections**

- A. Cornices, eaves, gutters and fire escapes when not prohibitive by any other code or ordinance, may project into a required side yard not more than one-third of the width of the side yard, nor more than four (4) feet in any case.
- B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project not more than one and one half (1½) feet into a required side yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- C. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may extend to the side yard property line when they are three (3) feet or less in height from ground level.

#### **2.209.06 Rear Yard Projections**

- A. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project not more than one and one half (1½) feet into a required rear yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- B. A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than five (5) feet into a required rear yard and set back at least six (6) feet from any property line.
- C. Planter boxes, steps, uncovered porches, covered but unenclosed porches including covered patios when not more than one story high and the floors, which are not more than four (4) feet above grade and which shall not come closer than 14 feet from the rear lot line, are exempt from the minimum rear yard depth requirements.
- D. No permitted projection into a required rear yard shall extend within ten (10) feet of the center line of an alley or of a rear lot line if no alley exists.
- E. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three (3) feet or less in height from ground level.

#### **2.209.07 Vision Clearance**

- A. Vision clearance for corner lots shall be a minimum of 20 feet.
- B. Vision clearance for street-alley intersections shall be a minimum of ten (10) feet.
- C. Vision clearance for driveway approaches shall be a minimum of ten (10) feet.

Vision clearance, as defined in this ordinance, shall be provided in accordance with the following diagram:

(see attached diagram)

## **2.210 REQUIREMENTS FOR RIPARIAN CORRIDORS**

### **2.210.01 Purpose and Intent**

The purpose of this ordinance is to protect and restore water bodies and their associated riparian areas, in order to protect and restore the multiple social and environmental functions and benefits these areas provide individual property owners, communities, and the watershed. The ordinance is based on the “safe harbor” approach as defined in Oregon Administrative Rules 660-23-0090(5) and (8). Specifically, this ordinance is intended to:

- A. Protect habitat for fish and other aquatic life,
- B. Protect habitat for wildlife,
- C. Protect water quality for human uses and aquatic life,
- D. Protect any associated wetlands,
- E. Control erosion and limit sedimentation,
- F. Promote recharge of shallow aquifers,
- G. Provide a stream “right of way” to accommodate lateral migration of the channel and protect the stream and adjacent properties,
- H. Reduce the effects of flooding,
- I. Reserve space for storm water management facilities, other utilities, and linear parks, and
- J. Minimize the economic impact to affected property owners.

The intent of the ordinance is to meet these goals by modifying the location, but not the intensity of development, where possible. The ordinance excludes new structures from buffer areas established around fish-bearing streams and any adjacent wetland in Hubbard. The ordinance also prohibits vegetation removal or other alteration in these buffers and establishes a preference for native vegetation in the buffers. For cases where buffer establishment creates a hardship for individual property owners, the ordinance provides a procedure to apply for a variance or generate density credits. Changes to the buffer width shall be offset by appropriate restoration or mitigation, as stipulated in the ordinance.

### **2.210.02 Definitions**

- A. Conservation easement: an option available to the local landowner that conditions the use of the buffer and provides perpetual protection for the resource. The landowner has the option of donating the easement to a land trust as a charitable contribution to reduce the owner’s income tax burden or donating it to a local government for reduction or elimination of property tax on the parcel.
- B. Density Compensation: a process to grant a developer of a subdivision or planned unit development compensation for developable land that has been lost due to the buffer requirement.
- C. Density Credit: Means granting a developer proposing a subdivision or planned unit development a credit when more than five (5) percent of the developable land



is consumed by the buffer. Credits are calculated using Table 1. The density credit is accommodated at the development site by allowing greater flexibility in the setbacks, frontage distances or minimum lot sizes.

**Table 1**  
**Density Credit Calculations**

<b>Percent of site lost to buffers</b>	<b>Density credit*</b>
5.1 to 50%	1.0 unit
51 to 70**	1.0 unit
71 to 100**	2.0 units

\*Additional dwelling units allowed over base density

\*\*Credit may be transferred to a different parcel

- D. Fish Use: streams inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts. Fish use is determined from the natural resources inventory in the Hubbard Comprehensive Plan.
- E. Impervious Surface: any material that reduces and prevents absorption of storm water into previously undeveloped land.
- F. Lawn: grass or similar materials maintained as a ground cover of less than six (6) inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used. Annual or biannual mowing of native grasses, as a part of a vegetation management plan to prevent the incursion of undesirable non-native weed species is allowed.
- G. Mitigation: includes taking one or more of the following actions listed in order of priority:
  - 1. Avoiding the impact altogether by not taking a certain development action or part of that action;
  - 2. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation;
  - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - 4. Reducing or eliminating the impact over time by preservation and maintenance operation during the life of the development action by monitoring and taking appropriate corrective measures;
  - 5. Compensating for the impact by replacing or providing comparable substitute resources or environments.

- H. Net Loss: a permanent loss of habitat units or habitat value resulting from a development action despite mitigation measures taken.
- I. Non-conforming: a structure or use that does not conform to the standards of this ordinance but has been in continuous existence from prior to the date of adoption of this ordinance up to the present. Non-conforming uses are not considered violations and are generally allowed to continue, though expansion, re-construction, or substantial improvement may be regulated.
- J. Off-Site Mitigation: habitat mitigation measures undertaken in areas distant from a development action, and which are intended to benefit fish and wildlife populations other than those directly affected by that action.
- K. On-Site Mitigation: habitat measures undertaken within or in proximity to areas affected by a development action, and which are intended to benefit fish and wildlife populations directly affected by that action.
- L. Riparian Buffer: a zone within the riparian area where placement of new structures, surficial alteration and disturbance, and vegetation removal, is limited or prohibited in order to preserve the environmental and social benefits of the riparian area.
- M. Riparian Area: the area adjacent to a river, lake, stream, or wetland, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
- N. Stream: a channel such as a river or creek that carries flowing surface water including perennial and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels. A stream that has been subsequently channelized or altered by other man-made impacts, or used for irrigation or drainage purposes, is still considered a stream.
- O. Structure: a building or other major improvement that is built, constructed or installed, not including minor improvements, such as utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.
- P. Substantial Improvement: any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
  - 1. Before the improvement or repair is started, or
  - 2. If the structure has been damaged and is being restored, before the damage occurred. For the purposed of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Q. Top of Bank: Means the stage or elevation at which water overflows the natural banks of streams or other water of the state, and begins to inundate the upland areas. In absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage or delineate the top of bank.

### **2.210.03 Identifying Riparian Areas and Establishing the Location of the Riparian Buffer**

- A. The inventory of significant riparian areas contained in the Natural Resources Element of the Hubbard Comprehensive Plan lists which streams are fish-bearing and the stream-size category. Based on the classification contained in this inventory, the following protected riparian corridors shall be established for stream segments listed as “significant”:
1. Mill Creek shall have a buffer of 50 feet from the top and on either side of bank except as identified below;
  2. Little Bear Creek shall have a buffer of 50 feet from the top and on either side of bank except as identified below;
  3. Where the riparian buffer includes all or portion of a significant wetland as identified in the Natural Resources Element of the Comprehensive Plan or by other means, such as a wetland delineation, the riparian buffer shall be at least 50 feet and shall include the upland edge of the wetland.
  4. The measurement of the riparian buffer shall be measured from the top of the bank. The measurement shall be slope distance. In areas where the top of each bank is not clearly defined, the riparian buffer shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward.
  5. The requirement to establish a riparian buffer applies to land inside city limits and to land outside the city limits and inside the UGB upon annexation of such land.
  6. Water areas, wetlands, and significant riparian corridors identified in the Comprehensive Plan are shown on maps that may not have site-specific accuracy. Property owners who believe their properties lie outside the

depicted riparian buffer can correct the map by submitting a survey, performed by a qualified surveyor (PLS), to the local governing body. The survey must show the normal high water line of the stream on a parcel base map. Where riparian corridors contain significant wetlands, the riparian buffer is measured from the upland edge of the wetland. Property owners can correct the map by submitting a wetland delineation, prepared by a qualified environmental consultant, that shows the wetland boundary. Wetland delineations must be first submitted to the Oregon Division of State Lands for review and approval. The City will review the submitted map and wetland delineation report, if required, and determine if the parcel lies within the riparian buffer.

#### **2.210.04 Protecting Riparian Resource by Managing Activities in the Riparian Buffer**

- A. The permanent alteration of the riparian buffer by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses provided they are designed to avoid and minimize intrusion into the riparian area, and no other options or locations are feasible and any applicable state and/or federal permits are obtained as required in Section 2.210.06:
1. Streets, roads, and paths;
  2. Drainage facilities, utilities, and irrigation pumps;
  3. Stormwater treatment facilities when they are located in severely degraded parts of the protected riparian corridor and designed to enhance overall function of the riparian resource (for example a grassy swale or constructed wetland with a buffer of native vegetation and that is located within previously farmed or cleared area).
  4. Water-related and water-dependent uses (for example boat launch, fishing dock);
  5. Replacement of existing structures with structures in the same location that do no disturb additional riparian surface area;
  6. Structures or other non-conforming alterations existing fully or partially within the protected riparian corridor may be expanded provided the expansion does not occur within the riparian buffer. Substantial improvement of a non-conforming structure in the riparian buffer shall require compliance with the standards of this ordinance;
  7. Existing lawn and non-native plantings within the riparian buffer may be maintained, but not expanded within the protected area. Development activities on the property shall not justify replacement of the riparian buffer area with lawn; and

8. Existing shoreline stabilization and flood control structures may be maintained. Any expansion of existing structures or development of new structures shall be evaluated by the local government and appropriate natural resource agency staff, for example Oregon Department of Fish and Wildlife, Division of State Lands, Department of Environmental Quality, Water Resources Department. Such alteration of the riparian buffer shall be approved only if less-invasive or nonstructural methods will not adequately meet the stabilization or flood control needs.
- B. Removal of riparian vegetation in the buffer is prohibited, except for:
1. Removal of non-native vegetation and subsequent replacement with native plant species. The City of Hubbard will provide a list of native and non-native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintain or exceed the density of the removed vegetation;
  2. Removal of vegetation necessary for the development of approved water-related or water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use; and
  3. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the City of Hubbard and replanting with native species. If no hazard will be created, the City may require these trees, once felled, to be left in place in the protected riparian corridor.
  4. Incidental removal of vegetation associated with recreational, educational, scientific research and land survey activities.
- C. Exceptions: The following activities are not required to meet the standards of this section if applicable.
1. Normal and accepted farming practices other than buildings or structures, occurring on land zoned for exclusive farm use and existing in the protected riparian corridor since prior to the date of adoption of this ordinance.

## **2.210.05 Adjusting Riparian Buffers**

- A. Permanent alteration of the riparian buffer by placement of structures or impervious surfaces within the riparian buffer, or placement of structures overhanging the riparian buffer, on existing lots or proposals to partition a lot, is allowed subject to approval of a variance granted under subsection 2.210.05.E. and subject to the mitigation requirement of subsection 2.210.05.C.:
- B. Subdivisions and planned unit developments proposed after the adoption of this ordinance must conform to the buffer requirements but may apply for density

credits to compensate for developable land that has been lost due to the buffer requirement.

1. A developer proposing a subdivision or planned unit development can get density credits when more than 5 percent of the developable land is consumed by the buffer. Credits are calculated using Table 1 in subsection 2.210.02.B.5. The density credit is accommodated at the development site by allowing greater flexibility in the setbacks, frontage distances or minimum lot sizes but can be used off-site if on-site accommodation is not practical.
- C. Proposals for development activities within the riparian buffer allowed in subsection 2.210.05.A. will include proposed mitigation for unavoidable impacts and shall be reviewed by the Oregon Department of Fish and Wildlife (ODFW). The review and/or mitigation recommendation from ODFW shall be submitted with the application. For purpose of implementing Statewide Planning Goal 5, the goal is no net loss of protected resources and no net loss of habitat values.

D. Variance

1. In cases where the application of the buffer is demonstrated to render an existing lot or parcel unbuildable, a property owner may request a variance to the riparian buffer. Granting of a variance requires findings that satisfy all three of the following criteria:
  - a. The proposed development requires deviation from the riparian buffer standards; and
  - b. Strict adherence to the riparian buffer standard and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and
  - c. The property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

E. Variance Applications

1. The applicant shall provide sufficient information regarding the proposed development and potential impact to riparian resources and the proposed mitigation plan to allow the ODFW to determine whether the proposal has minimized impacts to the riparian buffer and whether the proposed mitigation will provide equal or better protection of riparian resources. This information includes, but is not necessarily limited to:
  - a. A plot plan showing the top of the stream or waterbody bank, the riparian buffer, any wetlands, and any applicable setbacks;
  - b. The extent of development within the protected riparian corridor;

- c. Uses that will occur within the protected riparian corridor and potential impacts (for example: chemical runoff, noise, etc.);
- d. The extent of vegetation removal proposed;
- e. Characteristics of existing vegetation (types, density);
- f. Any proposed alterations of topography or drainage patterns,
- g. Existing uses on the property and any potential impacts they could have on riparian resources, and
- h. Proposed mitigation.

#### **2.210.06 Compliance With State and Federal Regulations**

All activities wholly or partially within riparian corridors are subject to applicable Division of State Lands permit requirements under the Removal-Fill Law and the U.S. Army Corps of Engineers permit requirements under Section 404 of the Clean Water Act. Where there is a difference between local, state, or federal regulations, the more restrictive regulations shall apply.

#### **2.210.07 Penalties**

Any activities within a riparian buffer not authorized under this ordinance are a violation. Violators shall be subject to the enforcement procedures pursuant to Hubbard's Development Code. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

#### **2.210.08 Conflicts**

To best protect important functions and values of riparian buffers in the event that the requirements of this section conflict with other ordinance requirements, the City shall apply the requirements that best provide for the protection of the resource.

#### **2.210.09 Severability**

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections, or permit approvals and prosecutions brought pursuant to this section.

## **2.211 REQUIREMENTS FOR WETLANDS**

### **2.211.01 Purpose and Intent**

The purpose of this ordinance is to protect and restore wetlands and the multiple social and environmental functions and benefits these areas provide individual property owners, the community, and the watershed. The ordinance is based on the “safe harbor” approach as defined in Oregon Administrative Rules 660-23-100(4)(b). Specifically, this ordinance is intended to:

- A. Protect habitat for fish and other aquatic life,
- B. Protect habitat for wildlife,
- C. Protect water quality for human uses and aquatic life,
- D. Control erosion and limit sedimentation,
- E. Provide a stream “right of way” to accommodate lateral migration of the channel and protect the stream and adjacent properties,
- F. Reduce the effects of flooding,
- G. Promote recharge of shallow aquifers,
- H. Provide opportunities for recreation and education,
- I. Protect open space, and
- J. Minimize the economic impact to affected property owners.

The intent of the ordinance is to meet these goals by modifying the location, but not the intensity of development, where possible. The ordinance restricts filling, grading, excavation, and vegetation removal in wetlands for their protection. The ordinance excludes new structures from wetlands in Hubbard. The ordinance provides procedures for correcting map errors, for hardship variances, and for granting a variance for parcels that have no buildable site through application of this ordinance.

### **2.211.02 Definitions**

As used in this ordinance, the following words and phrases, unless the context otherwise requires, shall mean:

- A. Enhancement: An activity that improves one or more specific functions or values of an existing wetland.
- B. Functions and Values: Functions refers to the environmental roles served by wetlands and buffer areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, flood storage, nutrient attenuation, and sediment trapping. Values refer to the qualities ascribed to a wetland such as educational and recreational opportunities, open space, and visual aesthetic qualities.
- C. Mitigation: Taking one or more of the following actions listed in order of priority:



1. Avoiding the impact altogether by not taking a certain development action or part of that action;
  2. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  4. Reducing or eliminating the impact over time by preservation and maintenance operation during the life of the development action by monitoring and taking appropriate corrective measures;
  5. Compensating for the impact by replacing or providing comparable substitute resources or environments.
- D. Restoration: To improve a disturbed wetland by returning wetland parameters that may be missing; adding soils, water, or plants. The restoration may return a missing or damaged wetland function to achieve a desired outcome.
- E. Wetland: An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- F. Wetland Delineation: A determination of wetland presence by a qualified professional that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods.

### **2.211.03 Procedures for Identifying Significant Wetlands**

The wetland regulations contained in this ordinance apply to those wetlands identified and mapped as significant in the City of Hubbard Local Wetlands Inventory, Wetland Functional Assessment, and Wetland Significance Determination. Significance determination is based on criteria contained in OAR 14 1-86-300 through 350 as adopted by the Division of State Lands.

Precise wetland boundaries may vary from those shown on the map. For any proposed development impacting a significant wetland or within 25 feet of an identified significant wetland, the applicant shall conduct a wetland delineation. The purpose of this delineation is to determine the precise wetland boundary for application of the Removal-Fill Law, and if applicable, the nature and extent of development impacts on adjacent wetlands. The more precise boundary obtained through a wetland delineation can be identified, mapped, and used for review and development without a change in the wetland inventory mapping. All developments proposed within a designated wetland area shall be subject to the provisions of this ordinance.

## **2.211.04 Land Use and Permit Requirements**

- A. Permitted Uses. The following uses are permitted within wetlands identified as locally significant.
1. Passive recreation activities that require no structures, such as bird watching, canoeing, or nature walks;
  2. Fishing or hunting consistent with state, local and federal law;
  3. Educational uses or research;
  4. Nature interpretative centers and wetland research facilities, when specified in, or consistent with, adopted plans and policies;
  5. Construction of trails, boardwalks, viewing platforms, information kiosks, and trail signs;
  6. Construction of bikeways and other paved pathways;
  7. Wetland and waterway restoration;
  8. Removal of vegetation using non-motorized tools;
  9. Removal of non-native vegetation;
  10. Removal of trees that are a hazard to life or structures;
  11. Mowing grass to comply with local or state fire prevention requirements;
  12. Planting or replanting with native plant species;
  13. Channel maintenance to maintain storm water conveyance and flood control capacity, as required by local policies, state and federal regulations, or intergovernmental agreements;
  14. Emergency repairs by the City or other public agencies to protect life and property;
  15. Compensatory mitigation required by state or federal permit;
  16. Removal of fill material or any refuse that is in violation of local, state, or federal regulations;

17. Maintenance of existing structures within the existing footprint of the structure;
  18. Construction of access roads for maintenance of channels, wetlands, and other natural resource areas; and
  19. Construction of discharge outlets for treated stormwater or wastewater;
  20. Normal and accepted farming and ranching practices other than construction of buildings or structures, occurring on land zoned for exclusive farm use and existing in the wetland since prior to the date of adoption of this ordinance.
- B. Prohibited Uses. Within locally significant wetlands, practices that are specifically not allowed and would adversely affect wetland functions and values include, but are not limited to the following:
1. New development or expansion of existing development;
  2. Placement of fill material, grading, or excavation;
  3. Road construction;
  4. Construction of stormwater or wastewater management or treatment facilities;
  5. Construction of new septic drainfields;
  6. Channelizing or straightening natural waterways;
  7. Storage or use of chemical pesticides, fertilizers, or other hazardous or toxic materials; and
  8. Clearing of trees or brush with motorized equipment including, but not limited to, chain saws and bulldozers.
- C. Compliance With State and Federal Regulations. All activities wholly or partially within wetlands are subject to Division of State Lands permit requirements under the Removal-Fill Law and U.S. Army Corps of Engineers permit requirements under Section 404 of the Clean Water Act. Where there is a difference between local, state or federal regulations, the more restrictive regulations shall apply.
- D. Division of State Lands Notification Required. The City shall provide notice to the Division of State Lands, the applicant, and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Local Wetlands Inventory or within 25 feet of such areas:
1. Subdivisions;

2. Building permits for new structures;
  3. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
  4. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
  5. Planned unit development approvals.
- E. The provisions of this section do not apply if a permit from the Division of State Lands has been issued for the proposed activity.
- F. Written City approval of any activity described in this section shall include one of the following statements:
1. Issuance of a permit under ORS 196.600 to 196.905 by the Division of State Lands is required for the project before any physical alteration takes place within the wetlands;
  2. Notice from the Division of State Lands that no permit is required; or
  3. Notice from the Division of State Lands is required until specific proposals to remove, fill, or alter the wetlands are submitted.
- G. If the Division of State Lands fails to respond to any notice provided under subsection (F) of this section within 30 days of notice, the City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- H. The City may issue local approval for parcels identified as or including wetlands on the Local Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

## **2.211.05 Appeals**

Any decision by the City on a land use application concerning the wetland protection requirements herein may be appealed to Hubbard's Development Regulations.

## **2.211.06 Variances**

In cases where the application of this ordinance is demonstrated to render an existing lot or parcel unbuildable, a property owner may request a variance from the wetland

protection requirements. Granting of a variance requires findings that satisfy all of the following criteria:

- A. The proposed development requires deviation from the wetland protection requirements;
- B. Strict adherence to the wetland protection requirements and other applicable standards would effectively preclude a use of the parcel that could reasonably be expected to occur in the zone, and
- C. The property owner would be denied a substantial property right enjoyed by a majority of the landowners in the vicinity.

#### **2.211.07      Violations**

Any activities within a significant wetland not authorized under this ordinance are a violation. Violators shall be subject to the enforcement procedures pursuant to Hubbard's Development Code. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

#### **2.211.08      Conflicts**

To best protect important functions and values of wetlands in the event that the requirements of this section conflict with other ordinance requirements, the City shall apply the requirements that best provide for the protection of the resource.

#### **2.211.09      Severability**

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections, or permit approvals and prosecutions brought pursuant to this section.

## **2.300 SUPPLEMENTAL DEVELOPMENT STANDARDS FOR SPECIAL USES**

### **2.301 GENERAL PROVISIONS**

#### **2.301.01 Applicability of Special Use Standards**

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

#### **2.301.02 Process**

The status of a special use as a permitted or conditional use is set forth in the underlying zoning district.

Conditional uses shall be processed in accordance with the criteria and procedures specified in Section 3.103. Permitted uses shall be reviewed for compliance with the standards of Section 2.200 in the manner specified in the particular special use section.

A. Conditional Uses. Special uses which are conditional uses in the underlying zoning district shall be reviewed for compliance with the standards of Section 2.200 during the review of the Conditional Use Permit. In addition to any specific requirements under the special use, the following information shall be included with the application submittal:

1. a description of the proposed use and specific reason for the request;
2. a vicinity map indicating the relationship of the proposed use to the surrounding area;
3. a site plan of the property, including existing and proposed improvements, and other information necessary to address the requirements and conditions associated with the use;
4. a building profile of proposed new or remodeled structures, as applicable; and
5. information addressing the criteria set forth under Section 3.103

## **2.302 PLANNED UNIT DEVELOPMENTS (PUD)**

### **2.302.01 Purpose**

- A. The purpose of Planned Unit Developments are to produce a development which would be as good as, or better than one resulting from traditional lot-by-lot development;
- B. to allow flexibility which will encourage a more creative approach in the development of land, and will result in a more efficient, aesthetic and desirable use of open area, while substantially maintaining the same population density and area coverage permitted in the district in which the project is located; and
- C. to allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the site potential characterized by special features of geography, topography, size and shape.

### **2.302.02 Area of Application**

- A. Planned Unit Developments may be established as a conditional use in residential districts, on parcels of land which are suitable for, and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this Section.

### **2.302.03 Applicant for Planned Unit Development Projects**

- A. Planned Unit Development projects may be applied for:
  - 1. by the owner of all the property involved, if under one (1) ownership; or
  - 2. jointly by all owners of the property in the area proposed for the Planned Unit Development project, if there is more than one owner.

### **2.302.04 Uses Permitted**

- A. In a Planned Unit Development only the following uses are permitted:
  - 1. Residential Uses
  - 2. Recreational facilities including, but not limited to, tennis courts, swimming pools and playgrounds
  - 3. Open space uses
  - 4. Schools, libraries, community halls and churches

5. Offices, buildings and facilities required for the operation, administration and maintenance of any Planned Unit Development and for recreation purposes such as golf courses, recreation rooms and vehicle storage areas
6. Convenience establishments of a commercial and service nature, including stores, laundry, and dry-cleaning establishments, beauty shops and barber shops, (but specifically excluding gas stations, repair garage, and eating and drinking establishments) provided:
  - a. such convenience establishments are an integral part of the general plan of development for the Planned Unit Development and provide facilities related to the needs of the prospective residents;
  - b. such convenience establishments and their parking areas will not collectively occupy more than one (1) acre per one hundred (100) dwelling units;
  - c. such convenience establishments will be located, designed and operated to efficiently serve frequent trade and to serve the needs of persons residing in the Planned Unit Developments; and
  - d. such convenience establishments will not, by reason of their location, construction or operation, have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular or pedestrian traffic.

#### **2.302.05 Development Requirements**

Planned Unit Developments shall comply with the applicable development standards of Section 2.200.

- A. Site Adaptation. To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment are preserved.
- B. Lot Arrangement. All lots within the development shall be designed and arranged to have direct access to, or frontage on open space or recreation areas.
- C. Density of Development. Permitted density of development in all PUDs shall be determined in accordance with the following procedures:
  1. Determine total gross site area (GSA).
  2. Multiply the GSA by .85 to determine the Net Site Area (NSA).
  3. Deduct from the NSA. any acres of 20 percent or greater slope which will be developed, proposed commercial areas, and other non-residential uses to



determine Net Developable Site Area (NDSA). Open space areas and hillside areas which will be in open space areas are not required to be deducted.

4. Determine maximum density of development in accordance with the appropriate method below:

- a. R-1 Zone Developments: Divide NDSA by 10 units per acre.
- b. R-2 Zone Developments Which Have No Multi-Family Uses: Divide NDSA by 10 units per acre.
- c. R-2 Zone Developments Proposing Multi-Family Units Only: Multiply NDSA by 15 units per acre.
- d. R-2 Zone Developments Proposing Mixed Uses of Multi-Family and Other Residential Uses: Multiply multi-family NDSA areas by 15 units per acre; divide other NDSA by 10 units per acre; add the two results together to determine maximum site density permitted.

D. Amount of Open Space. The required amount of open space or outdoor recreational area shall be at least twenty (20) percent of the gross area. Such open space should include school access routes, bicycle trails, natural or landscaped buffer areas, covered bus stops and the like whenever practical or appropriate.

E. Community Option. The Planning Commission may request the dedication of proposed open space land which is reasonably suited for use as a City park or for recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, location and applicable Comprehensive Plan policies, when such dedication is consistent with the ability of the City to maintain such parks.

F. Structure Setback Provisions. Yard setbacks for lots on the perimeter of the project shall be the same as that required for the subject zoning district. All detached structures shall maintain a minimum side yard setback of three (3) feet or meet the Uniform Building Code requirement for fire walls. A minimum front yard setback of twenty (20) feet shall be required for any garage structure whose opening faces onto a public street.

G. Circulation:

- 1. Streets within a PUD shall comply with the applicable standards of Section 2.202.
- 2. Roads, pedestrian and bikeway paths shall be an integrated system designed to provide efficient and safe circulation to all users. Developments should be designed to minimize the length of roadway.

3. Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.
- H. Off-Street Parking. Off-street parking requirements shall be as specified in Section 2.203. Parking may be provided on each lot or in clustered parking areas. Additional off-street parking for guests and recreational vehicles may be required by the Planning Commission if warranted by reduced lot sizes, type of street and/or traffic volumes.
- I. Utilities. In addition to other requirements set forth herein, the following shall apply:
1. All sewer and water provisions shall be approved by the City before construction of such improvements.
  2. All utility services shall be placed underground.
  3. Provisions shall be made for fire prevention, including service water lines, non-freeze hydrants and free emergency access for fire fighting equipment around buildings.
  4. Provision shall be made for control of site storm water drainage, as required by Section 2.204.
- J. Homes Association. A non-profit incorporated homes association, or an alternative acceptable to the City Attorney, shall be required for improving, operating and maintaining common facilities, including open space, streets, drives, service and parking areas and recreation areas. The following principles shall be observed in the formation of any homes association and shall be reviewed by the City Attorney.
1. A homes association shall be set up before approval of the final plat, or any portion thereof.
  2. Membership shall be mandatory for each home buyer and any successive buyer.
  3. The open space restrictions shall be in perpetuity.
  4. The homes association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
  5. Home owners shall pay their pro rate share of the cost or, the assessment levied by the association shall become a lien on the property.
  6. The association shall be able to adjust the assessment to meet changes needed.

7. No change in open space use or dissolution of homes association shall occur without a public hearing before the Planning Commission and approval by the City Council.

#### **2.302.06      Process**

Planned Unit Developments shall be processed in accordance with the submittal requirements and procedures established in Section 3.107. Approval shall only be granted if the requirements of this Section and all other applicable requirements of this Ordinance are met.

## **2.303 HOME OCCUPATIONS**

### **2.303.01 Standards**

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

- A. Participation. The home occupation shall include at least one member of the family residing in the residence.
- B. Character. The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.
- C. Traffic. A home occupation located on a local street or privately maintained road serving three or more residences, shall not generate more than twenty (20) vehicle trips in one day. A "trip" is a vehicle traveling in one direction to or from a source. Twenty (20) trips is equivalent to ten (10) round trips.
- D. Noise. A home occupation shall not create noise of a type, duration or intensity which, measured at the property line, exceeds 60 DBA between the hours of 7:00 a.m. and 6:00 p.m. No noise shall be created by the home occupation between the hours of 6:00 p.m. and 7:00 a.m. that is detectable to normal sensory perception, off the premises of the home occupation.
- E. Equipment and Process Restrictions. No home occupation conducted within a single-family detached residence or an accessory structure shall create vibration, glare, fumes, odors or electrical interference detectable to the normal sensory perception, off the property. No home occupation conducted in a residence other than a single family detached residence shall create vibration, glare, fumes, odors or electrical interference detectable to normal sensory perception outside the dwelling unit. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
- F. Hazards. No equipment, process or material shall be used which will change the fire rating or structure separation, fire wall or ventilation requirements for the structure in which the home occupation is located. No hazardous materials shall be used or stored on the property on which a home occupation is located, in quantities not typical of those customarily used in conjunction with activities or primary uses allowed in the zoning district.
- G. Signs. Signing shall be as provided in Section 2.206.
- H. On-Premise Client Contact. Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the

premises shall be by appointment only, and shall not be oriented toward, or attract off-the-street customer or client traffic.

- I. Deliveries and Large Vehicle Storage. Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except parcel post or United Parcel Service trucks. No vehicle over one (1) ton capacity used in conjunction with a home occupation shall be stored on the property or on public rights-of-way.
- J. Parking. Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas which are appropriately designed and surfaced for that purpose, and not located within the side or rear yard setbacks of the district. No more than two (2) home occupation-related vehicles shall be located on the property at one time. In the case of vehicle repair services, only two (2) vehicles shall be located and repaired on the property at one time, and shall be located and repaired within an enclosed structure. Except when access to the property is from a local or collector street, adequate maneuvering room shall be provided on-site to allow vehicles to leave the property front-end first.
- K. Storage and Use of Yard Areas. Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations which involve the care of children by a babysitter, as defined in Section 1.200, may use yard areas.

#### **2.303.02      Process**

Home occupations are allowed as an accessory use to any residential use in the City of Hubbard, subject to the Type I approval process listed in Section 3.201.01. The City Recorder, or the Recorder's designee, may refer the application to the Planning Commission for their review as a Type I action.

The standards of this Section shall govern all home occupations.

#### **2.303.03      Non-Compliance**

Any home occupation which does not comply with the requirement of this Section and the provisions of the underlying district shall be a violation of this Ordinance and shall be subject to the penalties and remedies of Section 1.102.03.

## **2.304 SMALL-SCALE MANUFACTURING IN THE COMMERCIAL DISTRICT**

### **2.304.01 Standards**

A small-scale manufacturing operation may be permitted in the Commercial (C) District as a conditional use provided that:

- A. the area involved in the manufacturing of the product does not involve more than 4,000 square feet of floor area, and all storage of materials is enclosed;
- B. the building and site plan are not incompatible with the character of the commercial area;
- C. no building shall be located closer than 60 feet to the centerline of a public road; provided, however, that in no case shall any structure be located closer than 20 feet to the right-of-way of any state highway or public road;
- D. there shall be a side yard of 20 feet in width adjacent to a residential district;
- E. there shall be a rear yard of 20 feet in width adjacent to a residential district;
- F. all sign requirements of Section 2.206 are met;
- G. all height requirements of the commercial district are met;
- H. off-street parking shall be provided for all customers and employees of the manufacturing business consistent with the provisions of Section 2.203; and
- I. the use shall not be objectionable in relationship to surrounding residential or commercial uses because of odor, dust, smoke, cinders, fumes, noise, glare, heat or vibration.

### **2.304.02 Process**

- A. Small-scale manufacturing uses in the Commercial District shall be reviewed in accordance with the Conditional Use Permit criteria and procedures as specified in Section 3.103; and
- B. Small-scale manufacturing uses in the Commercial District shall be subject to the criteria and procedures of Site Development Review process as set forth in Section 3.105.

The above reviews shall include consideration of the standards of this Section. Approval shall not be granted unless all standards of this Section and other applicable provisions of this Ordinance are met.

**2.305 MANUFACTURED HOME, TRAILER AND VEHICULAR SALES, SERVICE AND RELATED USES**

**2.305.01 Scope**

The provisions of this Section shall apply to the following uses:

- A. automobile service stations;
- B. automobile, truck, manufactured home, recreation vehicle or trailer sales;
- C. boat and marine accessory sales;
- D. motorcycle sales;
- E. retail tire shop, sales, service and repair; and
- F. towing service.

**2.305.02 Standards**

In addition to other development standards established elsewhere in this Ordinance, the following standards shall apply to the development of the uses listed in Section 2.305.01, above.

- A. All parking areas, loading areas or areas used for storage of boats, automobiles, mobile homes, recreational vehicles, trucks, trailers, motorcycles or other vehicles shall be paved with a concrete or asphalt surface.
- B. The lot shall be screened from adjoining residentially zoned properties in accordance with the provisions of Section 2.207.
- C. All merchandise and supplies, other than vehicles, mobile homes and trailers, shall be stored within a building.

**2.305.03 Process**

The uses listed in this Section shall be reviewed for compliance with the standards of this Section pursuant to the Site Development Review process set forth in Section 3.105.

## **2.400 GENERAL PROVISIONS**

## **2.401 GENERAL STANDARDS**

### **2.401.01 Minimum Requirements**

In interpreting and applying this Ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

### **2.401.02 Completion of a Structure Within a Reasonable Length of Time**

Subsequent to the granting of a building permit for a particular use, the Planning Commission may determine, and recommend to the City Council, that a structure not completed within one year of beginning construction shall constitute a violation of this Ordinance.

### **2.401.03 Lots of Record**

- A. A lot or parcel is a legal lot of record for purposes of this Ordinance when the lot conforms to all zoning requirements, Subdivision Ordinance requirements, and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.
  - 1. contiguous lots under the same ownership when initially zoned shall be combined, for the purposes of this Ordinance, when any of these lots do not satisfy the lot size requirement of the initial district. A lot or parcel, which is a separate legal lot or parcel prior to the adoption of this provision, shall remain a separate legal lot regardless of ownership.
- B. A lot or parcel, which is a separate legal lot or parcel prior to the adoption of this provision, shall remain a separate legal lot regardless of ownership.
- C. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced. Non-conforming lots of record are exempt from lot area, lot width, and street frontage requirements. However, no dwelling shall be built on an existing lot less than 3,000 square feet in area.

### **2.401.04 Lots Abutting a Partial Street**

New structures which are proposed to be constructed on lots abutting an existing public street which do not meet the minimum standards of Section 2.202 for right-of-way width, shall provide setbacks sufficient to allow for the future widening of the right-of-way. Building permits shall not be issued unless a yard setback equal



to the minimum yard requirements of the zoning district plus the required minimum additional right-of-way width is provided.

#### **2.401.05 Protection of Solar Access**

The use of solar energy systems including solar collectors, storage facilities, and distribution components for space heating and cooling and domestic water heating is a permitted use within all zones, whether as a part of a structure or incidental to a group of structures nearby.

- A. Solar collectors and the equipment used for the mounting and operation of such collectors, where necessary, may be elevated above the 2 1/2 story height limitation in residential zones. However, elevation of solar collectors shall not restrict solar access to adjacent properties.
- B. Chimneys, communication transmission towers, television and radio masts shall not significantly restrict or impair solar access to buildings or solar collector locations.

#### **2.401.06 Unsafe Building**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

#### **2.401.07 Limitations on Buildings**

In an R-1, R-2 and R-3 district there shall be only one main building on a lot, except in the case where multi-family dwelling units are built in an R-2 district; then the lot area requirements for multi-family dwellings shall apply.

#### **2.401.08 Fences Around Swimming Pools**

All swimming pools, as defined by this ordinance, shall be enclosed by a locking fence of 6'-0" in height. No swimming pool shall be located in a clear vision zone.

#### **2.401.09 Fences, Walls and Hedges**

Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. Fences along a front property line or within a front yard setback shall not exceed a height of five (5) feet, when the fence is at least 50 percent open. All other fences, walls or hedges shall not exceed a height of three and one-half (3 1/2) feet along the front property line or within a front yard setback. All fences which are located within the legs of a vision clearance area at street and alley intersections shall not exceed 3-1/2 feet in height from the adjacent curb elevation and shall be constructed of a material which is non sight-obscuring. A fence, wall or hedge may not exceed six (6) feet in height without approval of a variance.

Fences shall not be constructed of or contain any material which could cause bodily harm such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Barbed wire fences shall not be constructed or maintained, nor shall barbed wire be allowed to remain as part of a fence along a sidewalk or public way. Barbed wire may be placed above the top of a fence not less than six (6) feet high that is not along a sidewalk or public way. No electric fences shall be constructed or maintained along a sidewalk or public way, or along the adjoining property line of another property. Electric fences may be located more than 50 feet from a property line and must be marked.

**2.401.10 No Parking in Front Yard, Yards Adjacent to a Street or Landscaped Areas**

No parking shall be allowed, exclusive of driveways, within the required front yard areas, except as otherwise provided by this ordinance. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this Ordinance.

**2.401.11 Co-locating Communications Towers and Antennas**

- A. All requests for locating communications antennas shall be required to use existing structures and/or towers and only as permitted in the appropriate zone district. Requests for towers and/or support structures require approval from the Planning Commission under a conditional use application process.

**2.401.12 Construction Standards for Manufactured Homes**

All manufactured homes located within the City shall meet or exceed the following requirements.

- A. The manufactured home shall be multi-sectional and shall enclose a space of no less than 1,000 square feet.
- B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade. The foundation must be constructed of concrete or concrete block.
- C. The manufactured home shall have a roof with a nominal pitch of no less than 3/12.
- D. Roofing material shall be composition asphalt, fiberglass, wood shake or tile.
- E. The exterior siding of the manufactured home must be similar in color, material and appearance of that commonly used on other residential dwellings in the surrounding area.

- F. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards specified by state law for single-family dwellings.
- G. The manufactured home shall have an enclosed, attached or detached garage. A carport is permitted for manufactured homes placed within a manufactured home park. The garage shall be constructed of materials similar in color, material, and appearance to the manufactured home and shall be constructed prior to occupancy.
- H. Transportation mechanisms, including wheels, axles and hitch, must be removed prior to occupancy.
- I. The manufactured home shall be provided with gutters and downspouts to direct storm water away from the placement site.
- J. All utilities shall be connected to the manufactured home in compliance with City and State requirements prior to occupancy.
- K. At the time of installation, the manufactured home shall be in good repair and free of structural electrical, mechanical, and plumbing defects.
- L. The manufactured home and any manufactured home accessory buildings shall be constructed and maintained in conformance with state and federal safety and construction standards, applicable at the time of placing the manufactured home. The home shall bear the Oregon "Insignia of Compliance."
- M. Except for a structure which conforms to the state definition of a manufactured home accessory structure, no other extension shall be attached to a manufactured home, except a garage or carport constructed to the standards of the Oregon State Structural Specialty Code. No attached extension shall exceed a height of fourteen (14) feet, or the roof line of the manufactured home, whichever is greater.
- N. The applicant must obtain an installation/set-up permit for the manufactured home from the City.

## **2.401.13      Portable Accessory Structures**

Portable accessory structures, as defined by this ordinance, shall be structurally sound and shall be anchored. Such structures shall be maintained in good condition using only original manufacturer's coverings. No plastic sheeting, tarpaulins, or other materials shall be used as a covering.

In residential zones, one portable accessory structure, used as a private garage, as defined by this ordinance, may be located within the side portion of a front yard or in a rear yard, but must maintain the required front, side, and rear yard setbacks and shall not be placed directly in front of an attached or detached garage or carport. Such structures shall meet all applicable Uniform Building Code requirements.

In commercial and industrial zones, portable accessory structures may be located on any portion of the lot or parcel, subject to applicable setback and Building Code requirements.

**2.401.14      Addressing**

All new developments and expansion of existing developments shall provide minimum six-inch high reflective address numbers at the front of the main building near the main entrance.

## **2.402 GENERAL EXCEPTIONS**

### **2.402.01 Yard Exceptions for Accessory Service Station Structures and Equipment**

In a district where automobile service stations are permitted, free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Ordinance. In any zone, gasoline pumps and pump islands shall not be located so that any part of a vehicle being served shall extend into any public street right-of-way, alley or private drive used for access or egress to private property. Further, gasoline pumps or pump islands shall not be built within 10' from a property line.

### **2.402.02 General Exception to Building Height Limitations**

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles and other similar objects not used for human occupancy are subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

### **2.402.03 Height Exceptions for Public Buildings**

Public or quasi-public buildings, religious buildings, hospitals and educational institutions, when permitted in a zone, may be constructed to a height not to exceed 1.75 times the height limit for the zone, provided the required yards are increased one foot for each two feet of additional building height above the height regulation for the zone.

### **2.402.04 Additions to Existing Structures**

When structures exist at the time a zone is adopted which do not comply with front yard setback restrictions, additions to such structures not conforming to the front yard setbacks shall be allowed, provided:

- A. the setback distance will not be decreased by the addition;
- B. the addition conforms to all other provisions of the zoning district; and
- C. the addition shall not be greater than forty (40) percent of the square footage on the ground level of the existing structure.

### **2.402.05 Public Dedications**

Setback restrictions of this Ordinance shall not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures shall be allowed subject to Section 2.402.04.

## **2.402.06      Miscellaneous Exceptions to Setback Requirements**

Setback limitations stipulated elsewhere in this Ordinance may be modified as follows:

- A. Bus shelters which are intended for use by the general public and are under the ownership and/or control of a city, county, state or municipal corporation shall be exempt from setback requirements.
- B. Side and rear yards of underground structures may be reduced to 3 feet except:
  - 1. where the perimeter wall of the structure is above the natural elevation of the adjacent ground, in which case the setback provisions of the district shall apply; and
  - 2. all openings into the structure, including doors, windows, skylights, plumbing, intake and exhaust vents, shall meet the minimum setbacks of the district.
- C. An uncovered porch, terrace or patio structure extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of a side lot line or within ten (10) feet of a front or rear lot line.

## **2.403 USES PERMITTED IN ALL ZONES**

### **2.403.01 Scope**

The following uses and activities are permitted in all zones:

- A. placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains and detention basins within rights-of-way by public agencies and utility companies for telephone, TV cable or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, waste waters, sewage and rainwater subject to specific requirements per separate zone district;
- B. railroad tracks and related structures and facilities located within rights-of-way controlled by railroad companies;
- C. surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-way controlled by a public agency; and
- D. expansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.
- E. A non-conforming structure and/or use may be continued although not in conformity with the regulations for the zone in which the structure and /or use is located.

### **2.403.02 Discontinuation of Use**

If a non-conforming structure and/or use is discontinued for a period of more than twelve (12) consecutive months, the structure and/or use shall not be resumed unless the resumed structure and/or use conforms with the requirements of the Ordinance and other regulations applicable at the time of the proposed resumption.

### **2.403.03 Restoration, Changes, Replacement, or Alteration Required by Law**

See Section 3.109: Nonconforming Uses.

### **2.403.04 Maintenance**

Normal maintenance of a nonconforming structure and/or use is permitted provided there are not major structural alterations as determined by the City Building Inspector.

## **CHAPTER 3**

### **APPLICATION REQUIREMENTS AND REVIEW PROCEDURES**

#### **3.100 APPLICATION REQUIREMENTS AND REVIEW CRITERIA**

#### **3.101 SUMMARY OF APPLICATION TYPES AND REVIEW**

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

##### **3.101.01 Type I Action, Level 1 and Level 2**

A Type I , Level 1, action is a ministerial review process without a public hearing in which City staff apply clear and objective standards that do not allow much discretion. Public notice is provided as required for a Type I Action, Section 3.201.01. Appeal is to the Planning Commission. The following action is processed under the Type I procedure:

- A. Lot Line Adjustment;
- B. Home occupation (unless referred to the Planning Commission for review as a Type 1, Level 2 action).
- C. Minor Variance

A Type I , Level 2, action is a limited land use decision in which the Planning Commission apply clear and objective standards. The Planning Commission makes a decision on the application but does not conduct a public hearing, unless specifically required by this Ordinance. Public notice is provided as required for a Type I Action, Section 3.201.01 if no public hearing is conducted. Public notice is provided as required by Section 3.202.02 if a public hearing is conducted. Appeal is to the City Council. The following actions are processed under the Type I, Level 2, procedure:

- D. Home Occupation (if referred to the Planning Commission)
- E. Partitions

##### **3.101.02 Type II Actions**

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:



- A. Conditional Use Permit
- B. Non-Conforming Uses
- C. Planned Unit Developments
- D. Similar Uses
- E. Variances
- F. Subdivisions
- G. Site Development Review

### **3.101.03      Type III Actions**

A Type III Action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. The Planning Commission has an advisory role. Public notice is provided and public hearings are held at the Planning Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Annexation
- B. Comprehensive Plan Text and Map Amendments
- C. Development Code Text Amendments
- D. Vacation
- E. Zone Change

### **3.101.04      Type IV Actions**

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

- A. Rewriting the City's Comprehensive Plan document
- B. Rewriting the City's Development Code
- C. Creating City Plan documents (e.g. Public Facilities Plan)
- D. City-wide changes to the Comprehensive Plan map

E. City-wide changes to the Zone District map

**3.102           COMPREHENSIVE PLAN AND DEVELOPMENT CODE TEXT  
AMENDMENTS, COMPREHENSIVE PLAN MAP AMENDMENTS, AND  
ZONE CHANGES**

**3.102.01       Process**

Comprehensive Plan and Development Code text amendments, Comprehensive Plan and Zone District map amendments, and zone changes will be reviewed in accordance with the Type III review procedures in Section 3.201.

City-wide changes to the Plan and Code documents or maps will be reviewed in accordance with Type IV review procedures in 3.201.

**3.102.02       Application and Fee**

An application for a zone change shall be filed with the City Recorder and accompanied by the appropriate fee and/or deposit. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

**3.102.03       Criteria for Approval**

- A. Comprehensive Plan and map amendments shall be approved if the applicant provides evidence substantiating the following:
  - 1. conformance with the applicable Statewide Planning Goals,
  - 2. conformance with the goals and policies of the Plan or demonstration of a change in circumstances that would necessitate a change in the goal and/or policy,
  - 3. a demonstration of public need for change, and
  - 4. a demonstration that the proposed amendment will best meet the identified public need versus other available alternatives.
- B. Development Code amendments and zone change proposals shall be approved if the applicant provides evidence substantiating the following:
  - 1. approval of the request is consistent with the Comprehensive Plan and the Comprehensive Plan map designation and most effectively carries out the Plan goals and policies considering all alternatives, and
  - 2. the property and affected area is presently provided with adequate public facilities, services, and transportation to support uses allowed within the requested zone, or such facilities, services provided concurrently with the development of the property.

3. The proposed amendment is consistent with the purpose of the Code's subject section and article.
- C. the natural features of the site are conducive to the proposed zone district.

### **3.103           CONDITIONAL USE PERMITS**

#### **3.103.01       Process**

Conditional Use Permit applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

#### **3.103.02       Application and Fee**

An application for a Conditional Use Permit shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.103.03       Criteria for Approval**

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. the use is listed as a conditional use in the underlying district;
- B. the characteristics of the site are suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features;
- C. the proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use;
- D. the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district; and
- E. the proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.

#### **3.103.04       Expiration of Approval--Standards for Extension of Time**

- A. Conditional use permit approval shall be effective for a period of one year from the date of approval. If the conditional use has not begun within the one year period, the approval shall expire.
- B. Conditional use permit approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The City Recorder shall, upon request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6)

months. Requests for extension of approval shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.

**3.103.05      Discontinuance of a Conditional Use**

Discontinuance of a conditional use for a period of six (6) consecutive months shall render the conditional use permit approval null and void.

### **3.104 VARIANCES**

#### **3.104.01 Applicability**

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Ordinance, except when one or more of the following applies:

- A. the proposed variance would allow a use which is not permitted in the district;
- B. another procedure and/or criteria is specified in the Ordinance for modifying or waiving the particular requirement or standard;
- C. modification of the requirement or standard is prohibited within the district; or
- D. an exception from the requirement or standard is not allowed in the district.

#### **3.104.02 Application and Fee**

An application for a variance shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3. 104.03 Criteria and Procedure – Major Variance**

The Planning Commission may allow a variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence substantiating all the following and affirmatively answering the questions:

- A. Does compliance with the applicable requirement or standard of the Ordinance create a hardship due to one or more of the following conditions?
  - 1. The physical characteristics of the land, improvements, or uses are not typical of conditions in the zoning district and such physical characteristics do not result from the negligent or knowing violation of this Ordinance by the applicant.
  - 2. If the standard or requirement is applied, the applicant is not granted the preservation or enjoyment of a substantial property right possessed by other property owners in the same vicinity or district.
  - 3. Compliance with the requirement or standard would eliminate a significant natural feature of the property.
- B. Strict adherence to the requirement or standard unnecessary because the proposed variance will reasonably satisfy both the following objectives?

1. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property, and
  2. Granting the variance will not impose limitations on other properties in the area, including uses, which would be allowed on vacant or undeveloped properties.
- C. Approval of this application allows the property to be used only for purposes authorized by the zoning district?
- D. If approved, is the application still in compliance with the policies?

#### **3.102.04 Criteria and Procedure - Minor Variance**

- A. The City Recorder or Recorder's designee may allow a minor variance from a requirement or standard of this Ordinance in accordance with the Type I review procedures provided that the applicant provides evidence that the following circumstances substantially exist:
1. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or
  2. The particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be varied; and
  3. The proposed development will not unreasonably impact adjacent existing or planned uses and development; and
  4. The minor variance does not expand or reduce a quantifiable standard by more than 20 percent and is the minimum necessary to achieve the purpose of the minor variance; and
  5. There has not been a previous land use action approved on the basis that a minor variance would not be allowed.
- B. When a minor variance application is submitted concurrently with an application requiring a Type II review, such as a partition, subdivision, or planned unit development, the City Recorder or Recorder's designee may refer the minor variance application to the Planning Commission for their review.

#### **3.104.05 Expiration of Approval--Standards for Extension of Time**

- A. Variance approval shall be effective for a period of one (1) year from the date of approval. If the variance request has not been implemented within the one (1) year period, the approval shall expire.



- B. Variance approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The City Recorder shall, upon request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months. Requests for extension of approval shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.

### **3.105 SITE DEVELOPMENT REVIEW**

#### **3.105.01 Purpose**

The Site Development Review Process is intended to:

- A. guide future growth and development in accordance with the Comprehensive Plan and other related Ordinances;
- B. provide an efficient process and framework to review development proposals;
- C. ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. resolve potential conflicts that may arise between proposed developments and adjacent uses.
- E. The site development review provisions are not intended to preclude permitted multi-family housing development.

#### **3.105.02 Application and Fee**

An application for Site Development Review shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.105.03 Applicability of Provisions**

- A. Site Development Review shall be applicable to all new developments, major remodeling of existing developments, and change of occupancy, as defined by the Uniform Building Code, and/or change of use for commercial and industrial developments except:
  - 1. single-family detached dwellings;
  - 2. a duplex;
  - 3. any commercial or industrial remodel or expansion that does not exceed 25% of the total square footage of the existing structure; or
  - 4. any new development, change of occupancy, or commercial or industrial remodel, that does not intensify the use of the property by increasing the number of customers, vehicle and pedestrian traffic to the site, parking requirements, etc.
- B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

#### **3.105.04      Review and Approval Process**

Site Development Review applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.02.

#### **3.105.05      Submittal Requirements**

A. The following information shall be submitted as part of a complete application for Site Development Review:

##### **1. Site Analysis**

- a. existing site topography;
- b. identification of areas exceeding 10% slopes;
- c. site drainage, areas of potential flooding;
- d. areas with significant natural vegetation;
- e. classification of soil types;
- f. existing structures, roadway access and utilities; and
- g. existing and proposed streets, bikeways, and pedestrian facilities within 200 feet.

##### **2. Site Plan**

- a. proposed grading and topographical changes;
- b. all proposed structures including finished floor elevations and setbacks;
- c. vehicular, pedestrian, and bikeway circulation patterns, parking, loading and service areas;
- d. proposed access to public roads and highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;
- e. site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;

- f. proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- g. proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
- h. proof of ownership and signed authorization for the proposed development, if applicant is not the owner of the site; and
- i. a schedule of expected development.

### **3.105.06 Evaluation of Site Development Plan**

The review of a Site Development Plan shall be based upon consideration of the following:

- A. characteristics of adjoining and surrounding uses;
- B. drainage and erosion control needs;
- C. public health factors;
- D. traffic safety, internal circulation and parking;
- E. provision for adequate noise and/or visual buffering from non-compatible uses;
- F. retention of existing natural features on site;
- G. connectivity of internal circulation to existing and proposed streets, bikeways, and pedestrian facilities; and
- H. problems that may arise due to development within potential hazard areas.

### **3.105.07 Expiration of Approval--Standards for Extension of Time**

- A. Site Development Review approval shall be effective for a period of one year from the date of approval. If substantial construction of the approved plan has not begun within the one year period, the approval shall expire.
- B. Site Development Review approval shall be voided immediately if construction on the site is a departure from the approved plan.
- C. The City Recorder shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six months provided that:
  - 1. no changes are made to the approved Site Development Plan;

2. the applicant can show intent to initiate construction on the site within the six month extension period; and
3. there have been no changes in the facts or applicable policies or ordinance provisions on which the original approval was based.

**3.105.08 Bonding and Assurances**

If required site improvements cannot be completed prior to the issuance of an occupancy permit, a performance bond or other guarantee acceptable to the City Attorney may be required, as provided for in Section 3.208.

### **3.106 PARTITIONS**

#### **3.106.01 Area of Application**

A partition is required for any land division, which creates two or three parcels in a calendar year. The parcels shall meet the Development Standards for Land Division of Section 2.208, other applicable development standards and the following additional requirements:

- A. Access. Each parcel shall meet the access requirements of Subsection 2.208. Additionally, each lot in a minor partition shall have a minimum of twenty-five (25) feet of frontage on an existing state, county, city or public street; or, a constructed private easement being used for access, when said easement existed prior to the adoption of this Ordinance. A land division which requires the creation of a public or private street to provide access to new parcels shall be either a major partition or a subdivision.
- B. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.

#### **3.106.02 General Provisions**

- A. Partition approval is valid in perpetuity, upon recording of the final surveyed plat.
- B. No parcel within an approved partition may be redivided within the same calendar year in which it was recorded, except through the subdivision process.
- C. A master plan for development is required for any application which leaves a portion of the subject property capable of replatting.

#### **3.106.03 Submittal Requirements for Preliminary Review**

- A. Applications for partitions shall be submitted on forms provided by the City to the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
- B. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one inch equals fifty (50) feet nor more than one inch equals 200 feet, and containing at a minimum, the following:
  - 1. name and address of the owner of the property to be divided;
  - 2. legal description of the property, by Township, Range, Section and Tax Lot;
  - 3. dimensions and size in square feet or acres of all proposed parcels;
  - 4. individual parcel designation, e.g., Parcel I, Parcel II;

5. adjacent property under the same ownership;
6. north arrow and scale;
7. all adjacent roads, bikeways, and pedestrian facilities, public or private, existing and planned, including name and road width;
8. location and size of all existing and proposed utilities;
9. comprehensive plan and zoning designations for the subject property;
10. all existing structures on the property and their setbacks;
11. slopes on the property exceeding ten (10) percent;
12. natural drainage ways, streams, wetlands or other significant natural features of the property, such as significant vegetative areas or specimen trees;
13. other pending applications, including building permits, on the subject property; and
14. all easements (existing or proposed).

#### **3.106.04 Criteria for Preliminary Plat Approval**

- A. In approving a preliminary partition plat, the Planning Commission shall find the following:
  1. The preliminary plat conforms with the dimensional standards as required by the underlying zone district.
  2. Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
  3. Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
  4. The proposed street plan affords the best economic, safe and efficient circulation of traffic possible, under the circumstances.
  5. The proposed utility plan conforms with the applicable requirements as stated in this Code and any other applicable local, county, or state requirements.
  6. Conditions necessary to satisfy the intent of this Code can be satisfied prior to final plat approval.

### **3.106.05      Process for Preliminary Review**

- A. Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures specified in Section 3.201. A letter stating the findings and conclusions of the Planning Commission shall be forwarded to the applicant within 30 days of receipt of a complete application.

### **3.106.06      Process for Final Plat Approval**

- A. Survey Submitted: Within 180 days of the final decision approving a preliminary plat, four copies of a final survey of the approved plat shall be submitted to the City for review. The applicant shall be responsible for all recording fees. If the final survey is not submitted within 180 days, the preliminary approval shall lapse. The City Recorder may extend the approval period for any partition for a period of not more than 180 additional days. Requests for extension of approval shall be submitted in writing thirty (30) days prior to the expiration date of the approval period accompanied by payment of the required fee.
- B. Final Approval: If the partition plat is consistent with the approved preliminary plat, and if the conditions of approval have been satisfied, The City Recorder shall mark the survey plat "APPROVED" and shall:
  - 1. transmit one copy each of the approved plat to the Assessor, the County Clerk for recording, and the applicant, and
  - 2. retain one copy for the City's files.
- C. Recording of Approved Plat Required: No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Clerk.
- D. Improvements/Bonding: Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or guarantee as specified by Section 3.208. If ownership of a parcel is transferred prior to satisfaction of the conditions of approval, the new owner shall be notified in writing by the transferor of these conditions.



### **3.107 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS**

#### **3.107.01 General Provisions**

A Master Plan for development is required for any application which leaves a portion of the subject property capable of redevelopment.

#### **3.107.02 Submittal Requirements**

- A. The following submittal requirements shall apply to all major partition applications and to Preliminary Plan applications for subdivisions and PUDs.
1. All applications shall be submitted on forms provided by the City to the City Recorder along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
  2. In addition to the information listed in Subsection 3.106.03 of this Ordinance, applicants for subdivisions and planned unit developments shall submit the following:
    - a. the name, address and phone number of the applicant engineer, land surveyor or person preparing the application;
    - b. name of the PUD or subdivision;
    - c. date the drawing was made;
    - d. vicinity sketch showing location of the proposed land division;
    - e. identification of each lot or parcel and block by number;
    - f. gross acreage of property being subdivided or partitioned;
    - g. direction of drainage and approximate grade of abutting streets;
    - h. streets proposed and their names, approximate grade, and radius of curves;
    - i. any other legal access to the subdivision, PUD or partition other than a public street;
    - j. contour lines at two foot intervals if 10% slope or less, five foot intervals if exceeding 10% slope, and a statement of the source of contour information; and
    - k. all areas to be offered for public dedication.

- B. The following supplemental information shall be required for all PUD Preliminary Plan applications:
1. calculations justifying the proposed density of development as required by Subsection 2.302.05(C);
  2. proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated;
  3. the approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site;
  4. statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed; and
  5. written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

### **3.107.03 Review Procedures**

- A. All Preliminary Plans for subdivisions and PUDs shall be heard by the Planning Commission pursuant to the procedures set forth in Section 3.203.
- B. Approvals of any preliminary plans for a major partition, subdivision or PUD shall be valid for one year after the date of the written decision. A Final Plat for a major partition or a Final Plan for a subdivision shall be recorded within this time period or the approvals shall lapse. PUDs which do not involve the subdivision of property shall show substantial progress toward the construction of the project within the one year period or the approval shall lapse.
- C. The Planning Commission, after holding a hearing may extend the approval period for any major partition, subdivision or PUD for not more than one (1) additional year at a time. Requests for extension of approval time shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.
- D. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

### **3.107.04 Form of Final Subdivision or Plat**

- A. The final plat shall be prepared in a form and with information consistent with ORS 92.010-92.160, and
- B. The final plat shall contain, at a minimum, the following information:
  - 1. the lines and names of all streets or other public ways, parks, playgrounds and easements intended to be dedicated for public use or granted for the use of the owners within the subdivision;
  - 2. the length and bearings of all straight lines, curves, radii, arcs and the semi-tangents of all circles;
  - 3. all dimensions along the lot lines of each lot, in feet and decimals of a foot to the nearest hundredth, with the true bearings and any other data necessary for the location of any lot line in the field;
  - 4. suitable primary control points, approved by the County Surveyor, and description and ties to these control points, to which all dimensions, angles, bearings and similar data given on the plat shall be referred;
  - 5. the location of all permanent monuments;
  - 6. the names of all subdivisions and partitions immediately adjacent to the subdivision;
  - 7. the date, true North point and scale;
  - 8. the boundary of the divided tract, with the bearings, curves and distances marked, as determined by a field survey made by a registered engineer or a licensed land surveyor by the State of Oregon, and to close with an error of not more than one foot in four thousand (4,000) feet;
  - 9. any easements or notes required by the City; and
  - 10. open space and common ownerships shall be labeled as tracts and their use identified.
- C. Endorsements required: The following endorsements represent the minimum required for a final plat. Additional endorsements required by State or County, laws, ordinances or regulations shall also be supplied. Signature blanks for these endorsements shall be provided on the final plat.
  - 1. Mayor.
  - 2. City Engineer.

3. Planning Commission Chair
  4. Signature blanks for the Mayor with acceptance declaration for dedications of land to public use (other than public utility easements).
- D. All Homeowners Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney.
1. The final plat shall not be approved by the Planning Commission until the Homeowners Association Agreement, Articles and By-Laws are approved.
  2. The Homeowner's Association Agreement shall be consistent with Chapter 94, Oregon Revised Statutes.
  3. A Certificate of Formation of a non-profit corporation, with a State seal, for the Homeowners Association, shall be submitted with the final plat for review by the Planning Commission.
  4. Signed, original documents of the Homeowners Association Agreement, Articles and By-Laws and the Certificate of Formation described in (3) above, shall be recorded with the final plat.
- E. All plat names shall conform to ORS 92.090.

### **3.107.05 Final Plat Review of Subdivisions**

- A. Within 1 year of the final decision approving a preliminary plat, a final plat shall be recorded. If the final plat is not submitted within 1 year, the preliminary approval shall lapse.
- B. The City Recorder shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six months provided that:
  1. No changes are made to the approved preliminary plat; and
  2. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.
- C. After the final plat has been submitted, the City staff shall review and compare it with the approved preliminary plan to ascertain whether the final plat conforms substantially to the preliminary plan and to the conditions of approval as were imposed. The final subdivision plat shall be submitted to the Planning Commission for review. The Planning Commission shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The Planning Commission Chairman shall signify Planning Commission approval of the final plat by signing the recorder's plat sheet and exact duplicate.

D. No final plat shall be approved unless:

1. The plat is in substantial conformance with this Ordinance and the provisions of the preliminary plan as approved, including any conditions imposed in connection therewith;
2. The plat contains free and clear of all liens and encumbrances a donation to the public of all common improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this Ordinance or was made a condition of the approval of the preliminary plat;
3. Explanations of all common improvements required as conditions of approval of the preliminary plan have been recorded and referenced on the plat;
4. All reserve blocks shown on the preliminary plan or required as conditions of approval have been deeded in fee simple to the City;
5. The City has received adequate assurances that the applicant has agreed to make all public improvements, which are required as conditions of approval of the preliminary plan. The following constitute acceptable adequate assurances:
  - a. Certification by the City Engineer that all required public improvements are completed and approved by the City; or
  - b. The City Engineer certifies that 75% of the improvements are completed and a performance guarantee as provided by Section 3.208.01 has been provided.

E. If the City Recorder finds that conditions specified in subsection (D) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the preliminary plan approval.

F. When the City Recorder finds that the final plat is in substantial conformity to the approved preliminary plan and is otherwise in lawful form, the City Recorder shall sign and date all three reproducible copies of the plat.

G. Following endorsement of the plat by the City Recorder, the Mayor and the City Engineer, the applicant shall:

1. Pay all required review fees.
2. Complete all action required by ORS 92.100.
3. Obtain any other approval signature required by State or County laws,

ordinances or regulations.

4. Deliver the approved subdivision plat and accompanying documents to the County Clerk for recording.
5. Deliver a signed Mylar copy and three copies of the recorded subdivision plat to the City Recorder's office.

H. Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the County Clerk. Approved final plats shall become void one year after final City approval if they are not recorded.

### **3. 108           EXPEDITED LAND DIVISION**

#### **3.108.01       Eligibility**

Urban property within the Urban Growth Boundary, designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an expedited land division process when creating three or less parcels.

#### **3.108.02       Exclusion**

Property and process exclusions are as follows:

- A. Properties specifically mapped and designated in the Comprehensive Plan and Code for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features are not eligible for the construction of dwelling units or accessory buildings.
- B. an expedited land division process are not land use or limited land use decisions and are not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).

#### **3.108.03       Complete Application**

The City reviews an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.

#### **3.108.04       Public Notice**

Upon submittal of a complete application, the City provides written notice to affected governmental agencies, recognized neighborhood associations, and property owners within 100 feet of the site proposed for the land division.

#### **3.108.05       Notice Specifications**

The notice must include the following:

- A. set deadlines for submission of written comments,
- B. the time and place where all copies of evidence submitted by the applicant will be available for review,
- C. the name, address, and telephone number of the City's staff person available to comment on the application,
- D. summary of the local decision making process for such a decision,

E. applicable criteria, and

F. notification that participants must raise all issues during the written comment period.

**3.108.06 Initial Decision Making**

The local government must allow at least 14 days for written comments and must conclude this phase of the process within 63 days. No public hearing may be held during the initial decision making phase. The City may enter a summary decision making its determination.

**3.108.07 Review or Extension of the 63 Day Limit**

For the applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.

For the City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a seven (7) day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.

**3.108.08 Notice of Decision**

A notice of decision must be given to the applicant and other participants of the decision. The notice of decision states the appeal process.

**3.108.09 Criteria**

Criteria for approving the partition shall be as established in Section 9.140: Criteria for Approving a Preliminary Plat.

**3.108.10 Density**

The application must be to at least 80 percent of allowable density, according to the appropriate residential district.

**3.108.11 Street Standards**

The application must comply with the most recent City of Hubbard Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards.

**3.108.12 Timing to Appeal the Initial Decision**



A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.

**3.108.13 Fee for Appeal**

- A. Filing an appeal requires a deposit of 300 dollars to cover costs. An appellant faces the possibility of an assessment of 500 dollars for the total costs of local proceedings if the appellant does not prevail.
- B. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

**3.108.14 Basis for Appeal of the Initial Decision**

- A. The local appeal is based on the following:
  - 1. the failure to meet local substantive and procedural requirements,
  - 2. unconstitutionality,
  - 3. the decision was not within the expedited land division category, or
  - 4. a party's substantive rights have been substantially prejudiced by an error in procedure of the local government.

**3.108.15 Hearings Officer**

The appeal of the initial decision for an expedited land division decision is to a City designated hearings officer. The hearings officer may not be a City officer or City employee.

**3.108.16 Notification by the Hearings Officer**

Within seven (7) days of the hearings officer's appointment, the referee shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments. If a person submitting comments did not appeal, the issues presented by that person are limited to those in the comments.

**3.108.17 Appeal Hearing**

The hearings officer conducts a hearing that:

- A. follows the Order of Proceeding as stated in this Code, Section 4.110,
- B. allows the local government's explanation of its decision, and

C. may consider evidence not previously considered.

**3.108.18 Remand for Process**

If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.

**3.108.19 Decision by Hearings Officer**

In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer.

**3.108.20 Appeal of the Hearings Officer Decision**

The Land Use Board of Appeals has no jurisdiction over expedited land divisions. Appeals go directly to the Oregon Court of Appeals.

**3.108.21 Basis for Appeal of a Hearings Officer Decision**

The grounds for review of a hearings officer's decision are limited to:

- A. whether the decision followed the process for an expedited land division and the appellant raised that issue,
- B. unconstitutionality, and
- C. certain bias or interest on the part of the hearings officer or local government.

### **3.109 SIMILAR USES**

#### **3.109.01 Purpose and Scope**

The purpose of this Section is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein.

#### **3.109.02 Application and Fee**

Any application for a similar use shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.109.03 Process**

Similar use requests shall be reviewed in accordance with the Type II review procedures.

#### **3.109.04 Review Criteria**

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying district.
- B. The use conforms with the applicable standards and limitations of the underlying zoning district.

#### **3.109.05 Conditions of Approval**

In approving an application for a similar use, the Planning Commission or his designee may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

#### **3.109.06 Site Development**

Prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to the Site Development Review procedures of Section 3.105.

### **3.110 NONCONFORMING USE AND DEVELOPMENT**

#### **3.110.01 Purpose and Scope**

Within the zoning districts established by this Ordinance and amendments thereto, uses, structures, and lots exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses, structures, and lots to conforming uses, structures, and/or lots. However, this Section allows nonconforming uses, structures, and/or lots to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified in Subsection 3.110.03. Nothing contained in this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Ordinance or any amendment thereto. However, no alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

#### **3.110.02 Application and Fee**

An application for an alteration or expansion of a nonconforming use, structure, or lot shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Requests shall be heard by the Planning Commission pursuant to the provisions of Sections 3.202 and 3.203.

#### **3.110.03 Review Criteria**

- A. The Planning Commission shall authorize alteration, restoration or replacement of a nonconforming use, structure, or lot in accordance with the Type II review procedures when any of the following circumstances apply:
  - 1. the alteration is necessary to comply with any lawful requirements for alteration of said use, structure or lot; or
  - 2. restoration or replacement is made necessary because of a fire, other casualty, or natural disaster.
- B. In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure may be authorized by the Planning Commission, provided that the applicant demonstrates that the proposal satisfies the following criteria:
  - 1. the alteration would result in a reduction in nonconformity of the use,
  - 2. the alteration would have no greater adverse impact on the neighborhood,

3. the use or occupancy of the structure has not been discontinued for a period of one (1) year, and
4. the nonconforming use and any subsequent use of the property and structure involved conforms to the requirements of this Ordinance and any other applicable laws, ordinances, and regulations.

#### **3.110.04      Conditions of Approval**

In approving the alteration, restoration or replacement of a nonconforming use, structure, or lot, the Planning Commission may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out. Such conditions shall be reasonably related to the criteria set forth in Subsection 3.110.03.

#### **3.110.05      Compliance with Conditions**

Compliance with conditions imposed in granting a permit for alteration, restoration or replacement of a nonconforming use, structure, or lot and adherence to the approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance. The City Recorder may revoke any permit issued hereunder for failure to comply with any prescribed condition of approval, or for any other violation of this Ordinance.

### **3.111 LOT LINE ADJUSTMENTS**

#### **3.111.01 Area of Application**

A lot line adjustment is required for any relocation of a common property line between two abutting properties. The procedures and requirements in this section apply to the relocation of a common property line between two abutting properties.

#### **3.111.02 Process**

- A. A lot line adjustment application may be submitted by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser.
- B. A lot line adjustment application is processed as a Type I procedure pursuant to Section 3.101.01.

#### **3.111.03 Submittal Requirements**

- A. In addition to the completed application form, the applicant shall also submit:
  - 1. A map that shows the configuration of each parcel before the proposed adjustment.
  - 2. A map that shows the configuration of each parcel after the proposed adjustment.

#### **3.111.04 Evaluation Criteria**

- A. Approval of the lot line adjustment shall not be granted unless each of the following criteria are met:
  - 1. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.
  - 2. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.
  - 3. If a lot or parcel will be split-zoned after the adjustment, each portion of the lot or parcel that is in a separate zone shall meet the minimum lot size for that zone.
  - 4. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.
  - 5. The adjustment shall not reduce the street access for any lots or parcels to a size or dimension that does not meet the minimum standards required by the Hubbard Development Code.

6. The lot line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of the Hubbard Development Code.

### **3.111.05 Final Survey**

- A. In order to finalize the lot line adjustment process, Oregon Revised Statutes (ORS), Section 92.060(7) requires that the adjustment of a common boundary shall be surveyed and monumented, and a survey, complying with ORS 209.250, shall be filed with the County Surveyor. The survey shall be recorded with Marion County within one (1) year of the written approval or the decision shall be null and void, with the following exceptions:
  1. The survey requirement shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary (a line is adjusted parallel to its current location with no change in its length); or
  2. The survey requirement shall not apply to the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets, or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.
- B. The applicant shall submit a copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to issuance of any building permits on the re-configured lots.

### **3.200 ADMINISTRATIVE PROCEDURES**

### **3.201 GENERAL PROCEDURES**

#### **3.201.01 Procedure for Type I Review**

Applications subject to administrative review shall be reviewed and decided by the City Recorder or his designee.

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
  - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
  - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing, if the staff determines that it requires one, and all related timing provisions either:
  - 1. upon receipt of the additional information, or if the applicant refuses to submit the information; or
  - 2. on the 31st day after the original submittal the application shall be deemed complete for review purposes.
- C. Referrals will be sent to interested agencies such as City departments, police and fire departments, school district, utility companies and applicable state agencies.
- D. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both the Recorder and the applicant, the Recorder shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance.
- E. The applicant shall be notified in writing of the Recorder's decision.
- F. If the City Recorder finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Planning Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the standards in Sections 3.203.
- G. All administrative land use decisions of the City Recorder may be appealed to the Planning Commission, if such an appeal is filed within ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205 for appeals.



- H. The timing requirements established in this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.
  - 1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.
  - 2. Public notice shall be mailed to affected parties as specified in Section 3.203.
  - 3. The City Council shall hold a public hearing on the specified date, in accordance with the provisions of Section 2.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

### **3.201.02 General Procedures for Type II and Type III Actions**

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
  - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
  - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
  - 1. upon receipt of the additional information, or if the applicant refuses to submit the information;
  - 2. on the 31st day after the original submittal the application shall be deemed complete for scheduling purposes only.
- C. Applications for more than one Type II or Type III land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
- D. Referrals will be sent to interested agencies such as City departments, police and fire departments, school district, utility companies and applicable state agencies.
- E. The Public Hearing shall be conducted under the following procedures:

1. Open the public hearing and announce the purpose,
  2. Call for abstentions or declarations from the commissioners or councilors, and
  3. Ask the attendees for any objections to the jurisdiction of the commission or council to conduct the hearing.
  4. The commission chairperson or mayor requests the staff report.
  5. Proponents then address Commission/Council, in the following order:
    - (a) Principal, and
    - (b) Others.
  6. Opponents and anyone else just wishing to comment address Commission/Council.
  7. Questions of proponents and opponents from the floor and Commission/Council directed through Chair/Mayor.
  8. Comments from Public Agencies are either presented by an agency representative or written evidence is entered into the record.
  9. Any other letters or written/printed materials are entered into the record.
  10. The Proponent is allowed an opportunity for rebuttal.
  11. Staff makes a final recommendation to the Commission/Council.
  12. The Commission chairperson for the Mayor closes the hearing.
  13. Deliberation by the Commission/Council of findings of fact.
- F. Within 7 days of any action on a Type II or Type III land use application, the applicant and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- G. The timing requirements established in this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.
  2. Public notice shall be mailed to affected parties as specified in Section 3.203.
  3. The City Council shall hold a public hearing on the specified date, in accordance with the provisions of Section 2.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.
- H. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
    - a. protection of the public from the potentially deleterious effects of the proposed use; or
    - b. fulfillment of the need for public service demands created by the proposed use.
  2. Changes or alterations of conditions shall be processed as a new administrative action by City staff if the changes or alterations do not numerically diminish requirements, do not increase the impact on an adjacent single family residence or zone, or substantially alter the design or operation of the approved application. If City staff determines that a substantial change or alteration is requested, the Planning Commission becomes the administrative approval body.
  3. Whenever practical, all conditions of approval required the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information, which demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance bond or other guarantee as specified by Section 3.208 to ensure compliance with zoning regulations or fulfillment of required conditions.

### **3.201.03 General Procedures for Type IV Action**

- A. Initiation. Type IV applications may be initiated by:
1. majority vote of the City Council; or
  2. majority vote of the Planning Commission.

B. Public hearings are initially scheduled before the Planning Commission.

1. A public hearing shall be held by a majority of the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the Zoning Maps.

The Planning Commission may continue any hearing in order to make a reasonable decision.

2. Amendments shall be considered and acted upon by the Planning Commission.
3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than ten (10) days prior to the date of the hearing.

C. The purpose of the public hearing is to make a final decision on the application.

1. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.

## **3.202 PUBLIC NOTICE REQUIREMENTS**

### **3.202.01 Type I Actions**

The City shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The notice procedures shall:

- A. Provide a 14-day period for submission of written comments prior to the decision,
- B. State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period,
- C. List the applicable criteria for the decision,
- D. State the street address or other easily understood geographical reference to the subject property,
- E. State the place, date, and time that comments are due,
- F. State that copies of all evidence relied upon by the applicant are available for review and that copies may be obtained at cost,
- G. Include the name and phone number of a local government contact person,
- H. Provide notice of the decision to the applicant and any person who submits written comments, and
- I. Briefly summarize the local decision making process for a Type I action.

### **3.202.02 Type II and Type III Actions**

- A. Written notice of the initial public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant and the owners of property within 100 feet of the boundaries of the subject property.

If the application requires two or more hearings, written notice may be mailed ten (10) days before the first hearing,

- B. Written notice of a public hearing shall:
  - 1. explain the nature of the application and the proposed use or uses which could be authorized;
  - 2. cite the applicable criteria from the Ordinance and the plan which apply to the application at issue;

3. set forth the street address or other easily understood geographical reference to the subject property;
4. state the date, time, and location of the hearing;
5. state that the failure of an issue to be raised in a hearing, in person or by letter, or failure to prove sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the City Council for Planning Commission decisions and the Land Use Board of Appeals for City Council decisions;
6. state that it is the responsibility of the applicant to raise constitutional or other issues relating to any proposed conditions of approval. The failure of the applicant to raise such issues with sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an action for damages in circuit court.
7. include the name of the City representative to contact and the telephone number where additional information may be obtained;
8. state that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
9. state that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and a copy will be provided at reasonable cost; and
10. include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

### **3.202.03      Type IV Action**

Public notice for Type IV actions may be initiated using a media notification as stated in letters A. and B. (as follows) or using letter C. separately.

- A. Public notice for public hearings conducted by the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the Comprehensive Plan and Zoning Maps shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of the hearing.
- B. Public notice for public hearings conducted by City Council following Planning Commission action shall be as specified in Section 3.202.03.A.
- C. Public notice for both hearings, the Commission's and the Council's, may be given by publication in a newspaper of general circulation under one notice when

not less than ten (10 ) days before the Commission's hearing and not less than twenty (20) days prior to Council's hearing.

### **3.203 PUBLIC HEARING BEFORE THE PLANNING COMMISSION**

#### **3.203.01 General Provisions**

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Ordinance shall be initially heard by the Planning Commission within sixty (60) days of the receipt of an application which is complete as specified in Section 3.201
- B. The Planning Commission may continue a public hearing for additional information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.
- D. The decisions of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 3.205.
- E. The recommendations of the Planning Commission on applications for Type III actions shall be referred to the City Council for final determination, pursuant to Section 3.204.
- F. Written notice of the decision shall be prepared and mailed within seven days of the decision to affected individuals.
- G. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- H. It is the responsibility of the applicant to raise constitutional or other issues relating to any proposed conditions of approval. The failure of the applicant to raise such issues with sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an action for damages in circuit court.
- I. Appeal of a Type I action shall be heard by the Planning Commission in accordance with provisions of Section 3.205. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council.



### **3.203.02 Evidence**

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- C. All evidence shall be offered and made a part of the public record in the case.
- D. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- E. Every party is entitled to an opportunity to be heard and to present and rebut evidence
- F. All interested persons shall be allowed to testify.

### **3.203.03 Record of Hearing**

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

### **3.203.04 Limits on Oral Testimony**

The Planning Commission Chairman may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

### **3.203.05 Exhibits**

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

### **3.204 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL.**

#### **3.204.01 General Provisions**

- A. Action on Type III Reviews. The City Council shall hear all Type III actions pursuant to Subsection 3.201.02. The City Council action on such requests shall be the final action of the City on the request.
- B. Appeals. The City Council shall hear appeals of all Planning Commission actions conducted pursuant to Subsection 3.205. The appeal hearing shall be conducted in a manner consistent with Section 3.204. The action of the Planning Commission shall be final and the appeal shall not be heard by the Council if the appeal period has lapsed.
- C. All hearings or reviews required by the City Council shall be heard within thirty (30) days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant.

#### **3.204.02 Hearings by City Council**

Actions on quasi-judicial requests shall be conducted at public hearings pursuant to the City Council's adopted rules of procedure. The City Council shall allow opportunity for all parties to be heard and may accept new evidence.

#### **3.204.03 Review by City Council**

- A. Review on Record. Except as set forth in Subsection (2), the City Council's review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the Planning Commission action. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
  - 1. all materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence;
  - 2. all materials submitted by the City Staff with respect to the application;

3. the transcript of the hearing; and
  4. the findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings. The City Council may admit additional testimony and other evidence by holding a de novo hearing.

Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.

- C. City Council Action. The City Council may affirm, rescind or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan and as provided for in Section 3.201.02. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120 day review period specified in Subsection 3.201.02 (G).

**3.204.04 Supplemental Application for Remaining Permitted Uses Following Application Denial of Initial Application.**

- A. A person whose application for a permit is denied by the City may submit to the City a supplemental application for any or all other uses allowed under the City's comprehensive plan and land use regulations in the zone that was the subject of the denied application.
- B. The City or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 ("The 120-day Rule") shall apply to a supplemental application submitted under this section.
- C. A supplemental application submitted under this section shall include a request for any rezoning or variance that may be required to issue a permit under the City's comprehensive plan and land use regulations.
- D. The City shall adopt specific findings describing the reasons for approving or denying:
1. A use for which approval is sought under this section; and
  2. A rezoning or variance requested in the application.

### **3.205 APPEAL PROVISIONS**

#### **3.205.01 Appeal Period**

The decision of the City staff under an administrative procedure or a decision made by the Planning Commission following a public hearing shall be final unless a notice of appeal from an aggrieved party is received by the City within 12 days of the date of the final written notice, or unless the City Council, on its own motion, orders review within 12 days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

#### **3.205.02 Form of Appeal**

Appeal requests shall be made on forms provided by the City and shall state the alleged errors of the City staff decision or in the Planning Commission action based upon the approval criteria or any other local, state, or federal regulation that applied to the application.

#### **3.205.03 Notice Requirements**

Notice of hearings by the City Council on appeal requests shall be as specified in Section 3.202.

#### **3.205.04 Transcript Fees**

In addition to other fees for appeal requests, the appellant shall pay a transcript fee equal to the actual cost of the preparation of the transcript up to \$500, plus one-half the actual costs over \$500. The cost of the transcript fee shall be determined by the cost per page for the preparation of such transcripts.

The City shall estimate the cost of the transcript at the time of the filing of the appeal request and shall receive a deposit in that amount. The appellant shall be billed for actual costs in excess of the deposit or receive a refund for surplus deposit funds in excess of transcript fees authorized by this Section.

#### **3.205.05 Appeal of Expedited Land Divisions**

See Sections 3.108 through 3.108.21.

## **3.206 FEES**

### **3.206.01 Purpose**

Fees are for the purpose of defraying administrative costs.

### **3.206.02 General Provisions**

- A. Fees or a fee deposit shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee or fee deposit with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. Fees or the required deposit are not refundable unless the application is withdrawn prior to the notification of the hearing.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.

### **3.206.03 Land Use Application Fee Schedule**

- A. Charges are imposed for each type of planning and zoning land use application and related permits based on the most current City ordinance or resolution.

### **3.207 TYPE IV ACTIONS**

#### **3.207.01 Initiation**

Type IV may be initiated by:

- A. majority vote of the City Council; or
- B. majority vote of the Planning Commission.

#### **3.207.02 Procedure for Type IV Actions**

##### **A. Public Hearings by Planning Commission**

1. A public hearing shall be held by a majority of the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the Zoning Maps.

The Planning Commission may continue any hearing in order to make a reasonable decision.

2. Amendments shall be considered and acted upon by the Planning Commission.
3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of hearing.

- B. Public Hearing by City Council: Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.

### **3.208 PERFORMANCE GUARANTEES**

#### **3.208.01 Performance Guarantee**

When required for a Type II or Type III action, the applicant shall file a performance guarantee to insure the full and faithful performance of all terms of an improvement agreement, if any, or to insure completion of all work for which permits are required, by one of the following:

- A. A surety bond executed by a surety company authorized to transact business in the State of Oregon, in a form approved by the city attorney in an amount equal to 120 percent of the construction cost of required improvements, as verified by the city.
- B. A deposit with the city, or at the option of the city, a verified deposit with a responsible escrow agent or trust company, of cash or negotiable bonds in an amount equal to 120 percent of the construction costs of the required improvements, together with an agreement that the deposit may be disbursed only upon city approval of disbursement. The agreement shall include a provision that the city shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the city engineer following an inspection by the city engineer or the engineer's authorized representative.
- C. An agreement between the city, developer and one or more financial or lending institutions pledging that funds equal to 120 percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements. An irrevocable letter of credit is acceptable.
- D. An agreement between developer and city that no building permits for any structures within a subdivision will be issued until the applicant has completed all improvements and accepted by the city. Such agreement shall be in a form approved by the city attorney and recorded in the deed records of Marion County.

#### **3.208.02 Failure to Complete Improvements**

If the applicant fails to complete all improvements required by the City, the City shall estimate the cost of completing any required improvement(s). The City shall then call on the bond or deposit for the funds necessary to complete the improvement. If the amount obtained from the bond or deposit is insufficient to complete the improvement, or no bond or deposit was obtained, the City may either hold the collected funds until additional funds are available from the applicant or, the City may perform improvement on a portion of the improvement as determined reasonable.

Following final inspection of the improvement, and if the bond or deposit exceeds the actual cost to the City of completing the improvement, the remainder shall be released. If collected funds were inadequate to compensate the City for all reasonable costs, then the City may pursue all legal and appropriate remedies to collect any

funds due to the City. These remedies shall include placing a lien on the real property where the City paid improvement was performed. Funds payable to the city shall also be a personal debt and obligation of the owner.

### **3.208.03 Improvement Deferral**

If public improvements are required as a condition of approval of an action under this ordinance, such improvements shall be the obligation of the applicant but may, be deferred by the City.

The improvements may be deferred on all or a portion of the public improvements required as a part of the condition of approval under this ordinance, until a stated time such as the owner applies for a building permit or certificate of occupancy, or until required by council, whichever is earlier. A property owner seeking deferral under this ordinance shall sign an improvement deferral agreement that runs with the property, until owner installs improvements or until such improvements are required by City Council. Said agreement shall be in a form approved by the City Attorney and shall be filed in the office of the City Recorder.



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